

**Transitional Aid to Families with Dependent Children
Nonfinancial Eligibility**

Chapter 203

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Transitional Aid to Families with Dependent Children
Nonfinancial Eligibility

203.000: Overview of Nonfinancial Requirements

In order to receive TAFDC, an applicant or recipient must meet all of the applicable eligibility requirements. These requirements are of two types: financial and nonfinancial.

This chapter presents the nonfinancial requirements for TAFDC eligibility under the following headings:

- (A) Exemptions from Time-Limited Benefits and Reduced Need and Payment Standards, 106 CMR 203.100;
- (B) Time-Limited Benefits, 106 CMR 203.200;
- (C) Family Cap and Child of Record, 106 CMR 203.300;
- (D) Work Program, 106 CMR 203.400
- (E) Dependent Child, 106 CMR 203.560;
- (F) Relationship and Living Arrangement, 106 CMR 203.580;
- (G) Deprivation Factors, 106 CMR 203.500;
- (H) Residence, 106 CMR 203.650;
- (I) Citizens, Noncitizens, and Canadian-born Indians, 106 CMR 203.665;
- (J) Social Security Number, 106 CMR 203.910; and
- (K) Cooperation with Child Support Enforcement Efforts, 106 CMR 203.700.

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203.100: Exemptions from Time-Limited Benefits and Reduced Need and Payment Standards(A) Requirements

- (1) An assistance unit is exempt from the reduced Need and Payment Standards specified in 106 CMR 204.415 and 204.425 if the grantee meets one of the following exemptions and a grantee is exempt from the time-limited benefits restrictions specified in 106 CMR 203.200 if he or she meets one of the following exemptions:
 - (a) a disabled grantee;
 - (b) a grantee who is essential to the care of one of the following disabled persons living in the home:
 1. a child,
 2. the grantee's spouse, sibling or half-sibling,
 3. the child's other parent, or
 4. the parent(s) or grandparent(s) of: the grantee, the grantee's spouse, or the child's other parent;
 - (c) a pregnant woman whose child is expected to be born within the next 120 days;
 - (d) a grantee whose youngest child living in the home is under age two and in the assistance unit or is not in the assistance unit in accordance with 106 CMR 204.305 (E) (1)(2)(3) because the child:
 1. receives SSI,
 2. is provided with a state and/or federal foster care maintenance payment(s), or
 3. is provided with state and/or federal adoption assistance;

A grantee may not claim this exemption for a teen parent's dependent child if that child's parent is living in the home.
 - (e) a grantee whose child living in the home is under the age of three months and not included in the assistance unit;
 - (f) a teen parent under the age of 20 who is meeting the living arrangement requirements specified in 106 CMR 203.600 and attending school, not beyond high school, full time; or a combination of a full-time GED program and participation in an approved training or employment-related activity for a total of 20 hours per week; or if living in a teen structured living program, meeting the requirements specified in 106 CMR 203.630;

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- (g) an ineligible grantee, except that an ineligible grantee(s) who has a legal obligation to support his or her dependent child(ren) in the assistance unit shall not be exempt unless he or she meets one of the exemptions specified in 106 CMR 203.100(A)(1)(a) through (f) or (h); or he or she cannot work for pay due to his or her alien status; or
 - (h) a grantee(s) who is age 60 or older.
- (2) In a two-parent household, both grantees must qualify for one of the exemptions specified in 106 CMR 203.100(A)(1)(a) through (f) or (h) for the assistance unit to be exempt from the reduced Need and Payment Standards specified in 106 CMR 204.415 and 204.425;
- (3) In a two-parent family, only one parent may claim an exemption at 106 CMR 203.100(A)(1)(b), (d), or (e). In addition, in a two-parent family, if one parent claims an exemption under:
- (a) 106 CMR 203.100(A)(1)(a) as a disabled grantee, the other parent may not claim an exemption under 106 CMR 203.100(A)(1)(b)1. or 4., (d), or (e) unless there is medical documentation that the disabled grantee is unable to provide care for the person(s) listed in 106 CMR 203.100(A)(1)(b)1. or 4., (d), or (e); and/or
 - (b) 106 CMR 203.100(A)(1)(c) as a pregnant woman, the other parent may not claim an exemption under 106 CMR 203.100(A)(1)(b)1. or 4., (d), or (e) unless there is medical documentation that the pregnant woman is unable to provide care for the person(s) listed in 106 CMR 203.100(A)(1)(b)1. or 4., (d), or (e).
- (4) A grantee who is determined to be exempt shall remain exempt until the grantee no longer meets the criteria for an exemption. A grantee must inform the Department as soon as his or her circumstances change in a way that may affect his or her exemption status.
- (5) A grantee(s) who is determined to be nonexempt may appeal this nonexempt status determination. However, if the grantee(s) is found to be nonexempt as a result of the fair hearing, the period during which the appeal decision was pending shall be included in the calculation of the 24-month maximum period of eligibility as specified in 106 CMR 203.200.
- (6) In the event that a grantee(s) claims an exemption but is determined to be nonexempt as a result of the verification process, the period during which the verification process was being completed shall be included in the calculation of the 24-month maximum period of eligibility as specified in 106 CMR 203.200.

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- (7) For a grantee(s) who claims an exemption for disability on or after 2/1/98 but is determined to be nonexempt as a result of the verification process, the period during which the verification process was being completed shall be included in the calculation of the 24-month maximum period of eligibility as specified in 106 CMR 203.200.

(B) Verification

A grantee(s) who is claiming an exemption pursuant to 106 CMR 203.100(A)(1)(a) through (g) must provide the appropriate exemption verification specified below:

- (1) A disabled grantee must provide the verification(s) specified in 106 CMR 203.530 for Physical or Mental Incapacity.
- (2) A grantee who claims to be essential to the care of a disabled child must provide the verifications in both 106 CMR 203.100 (B)(2)(a) and (b) below:
 - (a) verification that the disabled child:
 1. is a recipient of Supplemental Security Income for disability; or
 2. has written verification of the disability from the disabled child's competent medical authority as defined in 106 CMR 701.600. This verification must be on a form prescribed by the Department; and
 - (b) written documentation on a form prescribed by the Department completed by a competent medical authority as defined in 106 CMR 701.600 that specifies the severity of the child's disability, the reason that the grantee is essential to the care of the disabled child and that the grantee must be home during normal school hours to care for the disabled child if this disabled child is of mandatory full-time school age.
- (3) A grantee who claims to be essential to the care of one of the persons listed in 106 CMR 203.100(A)(1)(b)2., 3., or 4. must provide the verifications in both 106 CMR 203.100(B) (3) (a) and (b) below:
 - (a) verification that the disabled person:
 1. is a recipient of Supplemental Security Income for disability, or Social Security for disability, or
 2. if a recipient of TAFDC, meets the requirements for Physical or Mental Incapacity as specified in 106 CMR 203.530, or
 3. if not a recipient of TAFDC, has written verification of the disability on a form prescribed by the Department completed by a competent medical authority as defined in 106 CMR 701.600; and

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- (b) written documentation on a form prescribed by the Department completed by a competent medical authority as defined in 106 CMR 701.600 that specifies the severity of the disability, the reason that the grantee is essential to the care of the disabled person, and that the grantee is unable to be employed because he or she must be in the home to care for the disabled person.
- (4) A teen parent under the age of 20 who is claiming an exemption must provide verification that he or she meets the requirements of 106 CMR 203.600.
- (5) An ineligible grantee who has a legal obligation to support his or her dependent child(ren) in the assistance unit must provide the applicable verification(s) specified in 106 CMR 203.100(B)(1) through (4) for the exemption being claimed or verification specified in 106 CMR 203.675 concerning his or her alien status if he or she is claiming to be exempt because he or she is unable to work for pay due to his or her alien status.
- (6) Verification of pregnancy shall be in accordance with 106 CMR 203.565.
- (7) Verification that a grantee is age 60 or older shall be in accordance with 106 CMR 203.570(B).

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The following acts perpetrated by a current or former intimate partner, relative, or household member shall be considered to be domestic violence:

- (1) physical acts that resulted in, or threatened to result in, physical injury;
- (2) sexual abuse;
- (3) sexual activity involving a dependent child;
- (4) being forced to engage in nonconsensual sexual acts or activities;
- (5) threats of, or attempts at, physical or sexual abuse;
- (6) mental or emotional abuse which would significantly reduce the victim's capacity to care for himself or herself or his or her child or significantly reduce his or her capacity to perform essential activities of daily living;
- (7) neglect or deprivation of medical care; or
- (8) stalking.

(B) Requirements

- (1) The Department shall notify all applicants or recipients that referrals to community-based programs are available to past and present victims of domestic violence, and that such individuals may be eligible for waivers of certain program requirements for good cause due to domestic violence. Notification shall take place at application and at eligibility review when appropriate, and any time the Department receives information indicating that the applicant or recipient may have a history of domestic violence.
- (2) The Department shall make available written information about domestic violence including how to contact community-based domestic violence programs, and the applicant's or recipient's rights with regard to confidentiality. The Department shall also inform applicants and recipients that community-based domestic violence programs may be able to assist them in requesting waivers and documenting the need for such waivers.
- (3) If requested, the Department shall assist any applicant or recipient to identify or locate a community-based program for domestic violence services.

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- (4) At any time, an applicant or recipient may request a waiver of certain TAFDC program requirements for good cause due to domestic violence.

Such requirements include:

- (a) the work program requirement;
- (b) the 24-month time limit;
- (c) the family cap; and
- (d) teen parent school attendance requirements.

Waivers for good cause due to domestic violence may be granted on a case by case basis by the Department, and may be temporary or permanent, as determined by the Department. Temporary waivers shall be granted for a period not to exceed six months. At the time of the expiration of the waiver, the continued need for the waiver shall be reviewed.

The burden of producing evidence to establish good cause due to domestic violence shall be on the applicant or recipient; however, the assistance of the worker may be requested in obtaining evidence. The applicant or recipient may be required to produce evidence to document the continued need for a good cause waiver if requested to do so by the Department, and at such time may be required to demonstrate that he or she is currently participating in a domestic violence program, or has otherwise begun to address the domestic violence issue which led to the granting of the waiver.

- (5) The Department shall determine whether a waiver for good cause due to domestic violence shall be granted, the type of waiver to be granted, if any, and the length of the waiver granted. If a waiver for good cause due to domestic violence is granted, the Department may require that the applicant or recipient speak with a professional who is trained in the field of domestic violence.
- (6) The Department may also reassess the Employment Development Plan (EDP) of an applicant or recipient who the Department determines cannot meet the requirements of such plan due to domestic violence.
- (7) A victim of domestic violence may also have good cause for failure to cooperate with child support requirements. Regulations pertaining to good cause for failure to cooperate with child support requirements are found at 106 CMR 203.740-203.775.

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Grounds for a waiver for good cause due to domestic violence shall exist in any of the following circumstances:

- (1) Imposition of the specific requirement for which a waiver is requested may place the applicant or recipient or his or her child at risk of domestic violence which may result in serious harm or emotional impairment to the applicant or recipient or his or her child. A serious emotional impairment is one of such severity that it would significantly reduce the applicant's or recipient's capacity to care for himself or herself or significantly reduce his or her capacity to perform essential activities of daily living.
- (2) Compliance with the specific requirement for which a waiver is requested may:
 - (a) make it more difficult for the applicant or recipient or his or her child to escape domestic violence; or
 - (b) unfairly penalize the applicant or recipient or his or her child as a current or former victim of domestic violence, or as a person who is at risk of further domestic violence.

(D) Verification of Good Cause Due to Domestic Violence

- (1) Evidence that documents the existence of domestic violence alone is not sufficient to document the need for a waiver for good cause due to domestic violence. The evidence must also meet the criteria for grounds for a waiver of good cause due to domestic violence as specified in 106 CMR 203.110(C).

The Department shall consider any credible evidence that is relevant to the claim of good cause. The Department shall determine what evidence is credible and the weight to be given to that evidence.

- (2) An applicant or recipient must verify a claim of good cause due to domestic violence by submitting the following documentary evidence:
 - (a) a signed statement which must include the following:
 1. the specific grounds for the good cause claim as specified in 106 CMR 203.110(C);
 2. the reason he or she believes imposition of the specific requirement may place him or her or his or her child at risk of domestic violence which may result in serious harm or emotional impairment, or may unfairly penalize him or her, or make it more difficult for him or her or his or her child to escape domestic violence; and
 3. a detailed description of any incidents which may have led him or her to believe this is true, and the approximate dates of such incidents; and

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- (b) court, medical, criminal, child protective service, psychological, law enforcement or school records; or
- (c) documents demonstrating that he or she has obtained an order of protection under Chapter 209A of the General Laws or has taken other legal steps to end the domestic violence, evidence that he or she has sought safe-haven in a domestic violence shelter or similar refuge, documentation of injuries such as medical records or photographs; or
- (d) if neither 106 CMR 203.110(D)(2)(b) or (c) is available or conclusive, a sworn statement from him or her and at least one other individual with knowledge of the circumstances that sets forth with specificity a history of domestic violence, rape or incest and other facts which support his or her good cause claim.

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- (A) A nonexempt grantee and all members of his or her assistance unit are subject to the following provisions:

A nonexempt grantee(s), including each grantee in a two-parent family, who is receiving assistance or who would be receiving assistance but for a TAFDC program sanction, shall be limited to receipt of TAFDC assistance for a maximum of a cumulative 24-months in a continuous 60-month period. The ineligibility shall apply to all members of the assistance unit.

- (1) The initial continuous 60-month period begins on December 1, 1996 for those receiving assistance on that date, or the date that an assistance unit first becomes eligible for TAFDC. The maximum cumulative 24-month period in a continuous 60-month period begins on December 1, 1996 for a nonexempt grantee receiving assistance on that date, including a nonexempt grantee(s) who would be receiving assistance except for a sanction, or on the date that an exempt grantee becomes nonexempt, or the date a nonexempt grantee first becomes eligible for TAFDC, whichever is later.
- (2) An assistance unit shall be considered to be receiving TAFDC if it:
 - (a) receives a TAFDC cash grant;
 - (b) has a grantee(s) participating in the Full Employment Program or supported work; or
 - (c) receives all TAFDC cash benefits through vendor payments.
- (3) The calculation of a nonexempt grantee's cumulative 24-month period shall be suspended when:
 - (a) the entire assistance unit is ineligible, including ineligibility as the result of a sanction;
 - (b) the grantee(s) becomes exempt as specified in 106 CMR 203.100; or
 - (c) the assistance unit voluntarily withdraws from TAFDC.

The calculation of the cumulative 24-month period resumes when the condition that caused the suspension no longer exists or the grantee(s) becomes nonexempt for another reason, provided it is during the same continuous 60-month period.

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- (4) A nonexempt grantee's cumulative 24-month period shall not be suspended when there is a sanction period imposed upon a member(s) of the assistance unit, except as in (3)(a);
- (5) The calculation of the 60-month period is never suspended;
- (6) If aid to the assistance unit has been terminated because of the expiration of the cumulative 24-month period, the assistance unit may establish eligibility for TAFDC before the end of the continuous 60-month period if the grantee(s) who had reached the 24-month limit meets an exemption specified in 106 CMR 203.100; and
- (7) At the end of a continuous 60-month period, a nonexempt grantee may reapply for TAFDC and establish a new cumulative maximum 24-month eligibility period and a new continuous 60-month period.

(B) Exception

- (1) A teen parent as specified in 106 CMR 203.600 who received assistance as a member of another TAFDC assistance unit may reapply for TAFDC assistance, provided he or she meets the requirements for teen parents as specified in 106 CMR 203.600; and
 - (a) he or she is no longer eligible for inclusion in another assistance unit; or
 - (b) the other TAFDC case is closed.
- (2) At the time of the reapplication, the worker shall determine if the teen parent meets an exemption specified in 106 CMR 203.100; and
 - (a) if the teen parent meets an exemption specified in 106 CMR 203.100, the assistance unit is exempt from the time-limited benefits specified in 106 CMR 203.200(A); or
 - (b) if the teen parent does not meet an exemption specified in 106 CMR 203.100, the teen parent is nonexempt and the time-limited benefits specified in 106 CMR 203.200(A) apply.

(C) Waiver of the 24-Month Period

The Commissioner or designee may waive the 24-month time-limited benefit period for a dependent child when that dependent child, who has been ineligible because of the provisions of 106 CMR 203.200, is no longer able to live with his or her custodial parent(s) because of one or more of the following reasons. In a two-parent family both parents must meet one of the following reasons:

- (1) the death of the child's custodial parent(s);
- (2) the incapacity of the child's custodial parent(s), such that the parent(s) cannot care for the child, and such incapacity and inability to care for the child is documented by a physician;
- (3) the custody or guardianship of the child has been legally transferred to the other parent or a relative;
- (4) the incarceration of the custodial parent(s), except that the child shall not receive assistance if the parent is released from his or her incarceration and is living with the child; or
- (5) the custodial parent(s) is institutionalized in a mental health facility or hospital provided the institutionalization is expected to last for more than 30 days, except that the child shall not receive assistance if the custodial parent is released from the institution and is living with the child.

(D) Verification Required for a Waiver of the 24-Month Period

The appropriate verification(s) for the waiver of the 24-month period must be provided as follows:

- (1) a death certificate or other acceptable verification of death in accordance with 106 CMR 203.510 for the death of the child's custodial parent(s);
- (2) a written report from a physician that verifies the incapacity of the child's custodial parent(s) and the inability of such parent(s) to care for the child;
- (3) a copy of the appropriate legal document verifying that the legal custody or guardianship of the child(ren) has been transferred to the other parent or a relative;
- (4) written documentation from the appropriate penal institution verifying the incarceration of the custodial parent(s) as well as the date of incarceration and expected date of release from incarceration, if any; or
- (5) written documentation from the institution where the custodial parent(s) is institutionalized as well as the date of admission and expected date of discharge, if any.

203.210: Extension of Benefits Beyond the 24-Month Period

The Commissioner or designee may extend benefits beyond the 24-month period under certain circumstances. A nonexempt grantee granted an extension must otherwise comply with all program requirements. Requests for extensions will be reviewed and determined on a case-by-case basis. Extensions which have been granted may be reviewed and revised as the Commissioner or designee deems appropriate.

An individual may request an extension of benefits beyond the 24-month period by submitting a written request to the Office of the Commissioner documenting the reason the extension is being requested. Extensions may be requested after a nonexempt grantee has used 22 months of time-limited benefits or for an individual who has received 24 months of time-limited benefits at any time provided it is within the same continuous 60-month period as specified in 106 CMR 203.200 (A).

(A) Requirements

- (1) Before determining whether or not to approve an extension, the Commissioner shall consider appropriate criteria including the following:
 - (a) the degree to which a nonexempt grantee has cooperated, and is cooperating, with the Department in work-related activities, as deemed appropriate by the Department. Work-related activities are those which will lead to full-time employment;
 - (b) whether the nonexempt grantee received and/or rejected offers of employment, reduced his or her hours of employment or quit a job without good cause as specified in 106 CMR 701.380, or has been fired for cause;
 - (c) whether appropriate job opportunities exist locally at that time. A job opportunity is appropriate when the nonexempt grantee meets the minimum requirements for a particular job;
 - (d) whether suitable state-standard child care is unavailable during the grantee's hours of employment and commuting time. This includes the unavailability of suitable special needs child care; and
 - (e) whether the nonexempt grantee has been sanctioned or has otherwise failed to cooperate with the Department's rules and regulations.

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- (2) A nonexempt grantee who is actively participating in an approved education or training activity at the end of the 24-month period shall be granted a three month extension to complete the activity. If necessary, a second three month extension may be granted to complete the activity.
- (3) A nonexempt grantee who requests an extension and is working full time (35 hours per week) and is otherwise eligible shall be granted an extension.

(B) Conditions of Extension

If an extension of benefits beyond the 24-month time period is granted, the following conditions must also be met:

- (1) Each extension is limited to a period of up to six months except as specified in 106 CMR 203.210 (A)(2).
- (2) In addition to the requirements specified in 106 CMR 203.210, all other financial and nonfinancial eligibility requirements for TAFDC must be met before an assistance unit may qualify for and continue to receive an extension of benefits beyond the 24-month period.
- (3) There is no limit to the number of extensions for which an assistance unit may qualify.

(C) Extension Activities

The Department will determine in which activities the nonexempt grantee should participate to obtain full-time employment. These activities may include one or more of the following:

- (1) a vocational evaluation;
- (2) referral, enrollment and participation in a vocational program specified by the Department or employment subsidized through the nonexempt grantee's TAFDC grant;
- (3) job search or structured job search; and
- (4) other activity as deemed appropriate by the Department.

In a two-parent assistance unit each nonexempt grantee must participate in the above activities.

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- (1) The Child of Record is the youngest child of a grantee or an ineligible grantee with a legal obligation to support his or her dependent children as specified in 106 CMR 701.600 or of a dependent child who is a parent, even if the grantee is not receiving assistance for his or her own children when the Family Cap date is established.
- (2) The Family Cap date is:
 - (a) for a grantee or an ineligible grantee as specified in 106 CMR 203.300(A)(1), including a grantee for a dependent child(ren) who is not his or her own natural or adoptive child(ren),
 1. who was transitioned to TAFDC on 11/1/95, 10 months following 11/1/95; or
 2. who was receiving AFDC on 6/30/97, 10 months following the date of the TAFDC transition review; or
 3. except as specified in 106 CMR 203.300 (A)(2)(a)(1) or (2), 10 months following the date a grantee first applies for TAFDC; and
 - (b) for a dependent child:
 1. who was a parent or who was pregnant and was transitioned to TAFDC on 11/1/95, 10 months following 11/1/95, or
 2. who was a parent or who was pregnant and receiving AFDC assistance on 6/30/97, 10 months following the date of the TAFDC transition review, or
 3. who was a parent or who was pregnant at the time of application except as specified in 106 CMR 203.300 (A)(2)(b)(1) or (2), 10 months following the date of application, or
 4. who was neither a parent nor pregnant as specified in 106 CMR 203.300 (A)(2)(b)(1)(2) or (3), the birth date of his or her first dependent child.

The Family Cap date is established for simplicity of administration in identifying those children born after the child of record.

(B) Requirements

- (1) A TAFDC assistance unit shall not be eligible for an increase in TAFDC assistance for a child born after the assistance unit's Family Cap date except as specified in 106 CMR 203.300 (C) or (D) below.

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In the instance of a dependent child who has had his or her Family Cap date established as specified in 106 CMR 203.300 (A)(2)(b), no TAFDC benefits will be provided for any additional child(ren) the dependent child may have even if he or she is no longer a dependent child but establishes eligibility as a grantee, except as specified in 106 CMR 203.300 (C) or (D) below.

- (2) A TAFDC assistance unit shall be considered to be receiving TAFDC assistance if it:
 - (a) receives a TAFDC cash grant, including a Full Employment Program supplement, or is participating in Supported Work;
 - (b) has been determined eligible for a TAFDC grant but the benefit amount is less than \$10;
 - (c) has a grantee(s) who is participating in the Full Employment Program and it is not receiving a supplement; or
 - (d) is subject to Monthly Reporting and is suspended for one month due to a regular and periodic extra paycheck from a recurring income source.
- (3) The child(ren) born after the Family Cap date shall be:
 - (a) determined eligible for MassHealth and food stamp benefits in accordance with MassHealth and Food Stamp regulations;
 - (b) considered a member(s) of the filing unit; and
 - (c) ineligible for inclusion in the assistance unit or any other assistance unit unless an exception or waiver of the Family Cap provision as specified in 106 CMR 203.300 (C) or (D) is granted.
- (4) Unless an exception or waiver to the Family Cap provision as specified in 106 CMR 203.300 (C) or (D) is granted, no additional children born after the Family Cap date may be included in the assistance unit even if:
 - (a) subsequent child(ren) are born to the parent(s); or
 - (b) the assistance unit's benefits are terminated and the assistance unit reapplies for TAFDC.
- (5) The first \$90 of any monthly countable income, including child support, received by or on behalf of each child(ren) ineligible for assistance due to the Family Cap shall be noncountable to the TAFDC assistance unit. Any countable income in excess of the \$90 shall be counted in determining the eligibility and grant amount of the assistance unit. The assets of the child(ren) are countable unless the asset is noncountable as specified in 106 CMR 204.140.

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- (1) An ineligible grantee, as defined in 106 CMR 701.600, shall not have a Family Cap date established until he or she applies for assistance as a grantee, as defined in 106 CMR 701.600, either for his or her own children or for other eligible dependent children unless the ineligible grantee has a legal obligation to support his or her dependent children, such as an SSI parent. In this instance, the Family Cap date shall be 10 months following the date the ineligible grantee becomes a grantee.
- (2) A child of a grantee with a Family Cap date is not subject to the Family Cap if:
 - (a) the child is born at least 20 months after the date that a grantee's eligibility for TAFDC has ended; and
 - (b) the grantee remained ineligible for at least 12 consecutive months from the closing date; and
 - (c) the grantee received TAFDC for no more than 10 consecutive months immediately preceding the child's birth.

A child born premature to its expected verified due date will be granted an exception if the due date was at least 20 months after the recipient's TAFDC eligibility ended and the recipient received TAFDC for no more than 10 consecutive months immediately prior to the verified due date.

- (3) A child born as a result of rape, sexual assault or incest shall not be subject to the provisions of the Family Cap.

(D) Waiver of the Family Cap

- (1) The Commissioner or his or her designee shall waive the Family Cap provision in situations where a dependent child who is ineligible due to the Family Cap provisions is no longer able to live with his or her custodial parent(s) for one or more of the following reasons (in a two-parent family both parents must each meet one of the reasons):
 - (a) the death of the child's custodial parent(s);
 - (b) the incapacity of the child's custodial parent(s), such that the parent cannot care for the child, and such incapacity and inability to care for the child is documented by a physician;
 - (c) the custody or guardianship of the child has been legally transferred to another parent, relative or custodian;
 - (d) the incarceration of the custodial parent(s), except that the child shall not receive assistance if the parent is released and is living with the child; or

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- (e) the custodial parent(s) is institutionalized in a mental health facility or hospital provided the institutionalization is expected to last for more than 30 days, except that the child shall not receive assistance if the custodial parent is released from the institution and is living with the child.

- (2) The Commissioner or his or her designee may waive the Family Cap provision if none of the above criteria apply and a TAFDC applicant or recipient makes a written request to the Commissioner or his or her designee explaining the extraordinary circumstances why a waiver should be granted.

If a waiver of the Family Cap provision is granted, the additional child(ren) shall be included in the filing unit and assistance unit and all of his or her income and assets shall be considered in determining the eligibility and grant amount for the assistance unit.

(E) Verifications

The appropriate verification(s) for an exception to, or waiver of, the Family Cap provision must be provided by the assistance unit.

- (1) The expected due date shall be verified by a competent medical authority.
- (2) Rape, sexual assault or incest shall be verified by a birth certificate or medical or law enforcement records that indicate that a child was conceived as a result of rape, sexual assault or incest. Acceptable medical records shall include records reflecting the judgment of a disinterested third party including, but not limited to, counselors, therapists, or any other medical or psychological health professional that conception was the result of rape, sexual assault or incest. When none of the above is present or conclusive, verification shall be a sworn statement from the grantee and at least one other individual with knowledge of the rape, sexual assault or incest.
- (3) The death of a child's custodial parent(s) shall be verified by a death certificate or other acceptable verification of death in accordance with 106 CMR 203.510.
- (4) The incapacity of the child's custodial parent(s) and such parent's inability to care for such child is verified by a written report from a physician.
- (5) That the legal custody or guardianship of the child(ren) has been transferred to another parent, relative or guardian is verified by a copy of the appropriate court document.
- (6) The incarceration of the custodial parent(s) is verified by written documentation from the appropriate penal institution.
- (7) Institutionalization of a custodial parent(s) is verified by written documentation from the institution where the custodial parent(s) is institutionalized as well as the date of admission and expected date of discharge, if any.

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- (1) A grantee who has received assistance for 60 days is required to work 20 hours per week unless:
 - (a) the grantee is exempt as specified in 106 CMR 203.100;
 - (b) the grantee is caring for, or receives into placement, a foster child who is under age two;
 - (c) a grantee is caring for, or receives into placement, a foster child whose needs exceed a standard level of care (DSS tiers 2, 3 and 4) as determined by the Commissioner of DSS or his or her designee. A waiver of work requirements may be granted by the DTA Commissioner for other foster parent grantees at the request of the DSS Commissioner based on the needs of the foster child; or
 - (d) the grantee has good cause as specified in 106 CMR 701.380.

In a two-parent household, each parent is required to meet the work program requirements unless that parent meets the requirements of 106 CMR 203.400(A)(1) except that 106 CMR 203.400(A)(1)(b) and (c) may apply to only one parent.

- (2) A nonexempt grantee meets the work program requirements by:
 - (a) working in a job for which compensation is paid for 20 or more hours per week;
 - (b) working full-time in a position in the Full Employment Program as specified in 106 CMR 207.180 or participating in an approved Supported Work Program as specified in 106 CMR 207.160;
 - (c) participating in a community service program for 20 hours per week as specified in 106 CMR 207.170, or in the final three months of time-limited benefits, participating in the Structured Job Search Program, as specified in 106 CMR 207.130, or a Department approved activity of 20 hours per week that is expected to result in employment;

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- (d) combining the hours of work and community service hours to total 20 hours per week. The number of hours of community service required each week will be the difference between 20 hours and the number of hours worked;
- (e) participating in the substance abuse treatment program while in a substance abuse shelter;
- (f) participating 20 hours per week or more in an unpaid work study or internship program;
- (g) providing child care to a teen parent's dependent child enabling the teen parent of the child to fulfill the school attendance requirements, provided that both the teen parent and his or her dependent child are living with the grantee; or
- (h) participating in a Department-approved Employer-Based Program with a commitment from employers to hire participants who successfully complete the program.
- (i) if the youngest child in the assistance unit or who would be in the assistance unit but is ineligible as specified in 106 CMR 204.305(E)(1), (2) or (3), is between the ages of two and mandatory full-time school age, the grantee may participate in an education or training activity for up to 20 hours per week. If the education or training activity is less than 20 hours per week, the grantee must perform other work program activities in 106 CMR 203.400(A)(2)(a) through (h) to total 20 hours per week. The education or training activity is defined as vocational education not to exceed twelve months.

In a two-parent household, only one parent may meet the Work Program requirement as specified in 106 CMR 203.400(A)(2)(i).

A grantee shall be granted an initial period of up to 60 days for receiving assistance while not meeting the work program requirement. During this initial period, the grantee is responsible for seeking self-initiated employment or the grantee may find employment through the Full Employment Program.

A grantee who fails to meet the requirements of the Work Program as specified in 106 CMR 203.400 (A)(2) within the 60 days shall be required to participate in the TEMP Community Service Program as specified in 106 CMR 207.170, unless the grantee is scheduled to begin participation in the Full Employment Program as specified in 106 CMR 207.180.

- (3) A categorically ineligible noncitizen, who is exempt from the reduced Need and Payment Standards as specified in 106 CMR 203.100 because his or her noncitizen status means that he or she is unable to work in a paying job, is required to participate in TEMP Community Service program as specified in 106 CMR 207.170 for 20 hours per week, unless:

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- (a) the grantee is exempt as specified in 106 CMR 203.100;
- (b) he or she is caring for, or receives into placement, a foster child who is under age two;
- (c) a grantee is caring for, or receives into placement, a foster child whose needs exceed a standard level of care (DSS tiers 2, 3 and 4) as determined by the Commissioner of DSS or his or her designee. A waiver of work requirements may be granted for other foster parent grantees at the request of the DSS Commissioner based on the needs of the foster child; or
- (d) he or she has good cause as specified in 106 CMR 701.380.

The individual shall be granted an initial period of up to 60 days to secure a TEMP placement. The individual who fails to begin a TEMP placement within the 60 days shall be mandated to participate in TEMP.

(4) At Reapplication

If the cash assistance is terminated and the grantee reapplies for assistance any time within a continuous 60-month period, the grantee, unless otherwise exempt, must meet the work program requirements to be eligible for assistance. If the grantee is not working, he or she shall not be granted another 60-day period to look for work.

If the 60-month period has expired when the grantee reapplies for assistance, and the grantee is not employed, the grantee, unless otherwise exempt, shall be granted another period of up to 60 days to look for employment before having to meet the work program requirement.

(B) Verification

Verification of participation in an ESP component shall be in accordance with the participation criteria for that ESP component. See 106 CMR 207.000 et seq.

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As a condition of TAFDC eligibility, the child must be deprived of the care or support of at least one parent through death, continued absence, physical or mental incapacity or unemployment or underemployment, whether or not the parents are or were married to each other.

A deprivation factor can be established only with regard to the child's natural or adoptive parent.

The presence in the home of a "substitute parent" or "man-in-the-house" or any individuals other than the parent is not an acceptable basis for a finding of ineligibility or for presuming the availability of income. Such a person may not be included in the assistance unit unless he or she meets all applicable eligibility requirements.

203.510: Death(A) Requirements

A child may be considered deprived of care or support on the basis of the death of either parent.

(B) Verification

Death must be verified. The preferred source of verification of death is the death certificate. If the death certificate cannot be obtained, death is verified by a signed statement from the funeral director or a newspaper death notice. If these are not available, death is verified by the following:

- (1) Veterans Administration (VA) records;
- (2) Hospital records;
- (3) Records of other medical or long-term care institutions;
- (4) Military service records;
- (5) Police records; or
- (6) Social Security Survivor's Benefits (RSDI).

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- (1) The continued absence of a parent constitutes deprivation when the absence interrupts or terminates the parent's functioning as a provider of maintenance, physical care, or guidance of the child, and the known or indefinite duration of the absence prevents the parent's performance of this function. An absence is of a continued nature if it has lasted, or can be expected to last, for a period of at least 20 days.
- (2) A child is not considered deprived of parental support by reason of continued absence if the parent's absence is occasioned solely by the performance of active duty in the uniformed services of the United States. The uniformed services are the following: Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, and the Public Health Service of the United States.

If the parent who is absent due to active duty in the uniformed services was living with the family prior to the current absence, it shall be assumed that the current absence is due solely to active duty in the uniformed services. If the absent parent has served in a succession of geographic locations with no interruption in service, the living arrangement that existed prior to the start of the absence will be used to determine whether the absence is due solely to active duty in the uniformed services.

The applicant or recipient may rebut this presumption by presenting verification that divorce, annulment or separation proceedings have been started or documentation from the appropriate branch of the uniformed services of abandonment of the child(ren). A parent either Absent Without Leave (AWOL) from or incarcerated by the uniformed services is not considered to be absent due solely to active duty in the uniformed services and may be considered an absent parent.

- (3) In all cases where deprivation is based on continued absence, a referral must be made to the Child Support Enforcement Unit. See 106 CMR 203.700: Cooperation with Child Support Requirements.

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The continued nature of the absence of the parent, the reason for the absence and the fact that the absence has lasted, or clearly can be expected to last, for a period of at least 20 days must all be verified.

- (1) The continued nature of the absence of the parent must be verified at application or when establishing continued absence as a deprivation factor; at subsequent eligibility reviews; and whenever the Department has reason to question the continued absence of the parent.

- (a) Except as provided in 106 CMR 203.520(B)(1)(b), the following are the verifications for the continued nature of the absence of the parent:

1. If the parent's absence has continued for less than 60 days, the acceptable verification is a current signed and dated statement from the applicant or recipient stating the date the parent left the home and that he or she continues to be absent from the home; or
2. If the parent's absence has continued for 60 days or more, the acceptable verification is:
 - a. Proof of a change of address for the absent parent as documented with the absent parent's employer, the Registry of Motor Vehicles or the postal service; or
 - b. Documentation that indicates a name change on a utility account from the absent parent's name; or
 - c. Documentation that legal action, such as legal separation, divorce or restraining order, has been started; or
 - d. A signed and dated statement from the applicant's or recipient's landlord stating the absent parent does not reside at the same address.

A signed and dated statement from the applicant or recipient stating the date the parent left the home and that the parent continues to be absent from the home is an acceptable verification only when one of the above verifications can not be obtained by the applicant or recipient.

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- (b) When the applicant or recipient is or has been a victim of abuse by the absent parent(s), an acceptable verification of the continued nature of the absence is a current signed and dated statement by the applicant or recipient indicating the date the abusing parent(s) left the home and that he or she continues to be absent from the home. An applicant or recipient shall be considered a victim of abuse if he or she suffered physical or emotional abuse by the absent parent(s) and the threat of such abuse continues. Verification that the applicant or recipient is a victim of abuse is:
1. a current written statement from an advocate for battered victims; or
 2. documentation from a law enforcement agency or the courts; or
 3. if the above two verifications are not available, a current written statement of the applicant or recipient that he or she has been or is a victim of abuse by the absent parent(s).
- (2) The reason for the absence must be verified at application or when establishing continued absence as a deprivation factor. If the reason for the absence is unchanged, it does not have to be reverified. Any of the following sources, as appropriate, may be used to verify the reason for the absence.
- (a) In cases of incarceration, deportation, institutionalization, divorce, legal separation, annulment, orders for separate support, or where a complaint for divorce or separate support has been filed, official records are verification of the reason for the absence. Acceptable official records include those from a court, correctional institution, hospital, and the Immigration and Naturalization Service.
 - (b) In cases in which physical or emotional abuse has occurred and the applicant or recipient and child(ren) have left the home, verification of the reason for the absence may be a current written statement from the applicant or recipient, a current written statement from an advocate for battered victims, or documentation from a law enforcement agency or the courts.
 - (c) In all other cases, the reason for the absence is verified by evidence of the absent parent's residence outside the home or by written statements by persons having a professional relationship with the applicant or recipient that support his or her statement about the absence.
 - (d) If none of the above verifications are available, the reason for the absence is established and verified by the applicant's or recipient's signed and dated statement that the parent has left the home.

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- (3) If the reason for the absence can be verified by one of the sources listed in 106 CMR 203.520(B)(2)(a), (b) or (c), it may be expected to last for a period of at least 20 days. If none of those verifications is available, an absence of less than 20 days is verified when it has lasted 20 days. If such an absence does prove to be continued, the deprivation requirement is met on the first day of the absence and TAFDC is provided retroactively in accordance with 106 CMR 702.150: Date Assistance Begins.
- (4) To determine if an absence is due solely to active duty in the uniformed services, it must be determined whether the absent parent was or was not living with the family prior to the current absence. Any of the following verifications are acceptable provided the address of each parent at the time of the start of the absence is verified:
- (a) A signed statement from a landlord unrelated to the applicant or recipient, or the absent parent;
 - (b) Church or religious institution records;
 - (c) Uniformed service records;
 - (d) Utility company records;
 - (e) Voter registration records;
 - (f) Motor vehicle license or registration;
 - (g) Employment records; or
 - (h) Hospital or clinic records.

If the above verifications show that the family and the absent parent were living together prior to the current absence, the current absence shall be considered to be due solely to active duty in the uniformed services and the child(ren) shall not be considered to be deprived of parental support. The applicant or recipient may rebut this presumption by providing one of the verifications listed below:

- (a) Divorce documents;
- (b) Legal separation documents;
- (c) Annulment documents;
- (d) Orders for separate support or other court documents which evidence separation;
- (e) Complaint for divorce or separate support;
- (f) Uniformed service records that verify the absent parent's incarceration or AWOL status; or
- (g) Documentation of abandonment of the child(ren) from the appropriate branch of the uniformed services.

203.530: Physical or Mental Incapacity**(A) Requirements**

A child is considered deprived of care or support if either parent, both of whom are living in the home, has a physical or mental defect, illness, or impairment which substantially reduces or eliminates the parent's ability to support or care for the child.

- (1) For a parent to be considered incapacitated for TAFDC purposes, his or her incapacity must have existed, or be expected to exist, for a period of 30 days or more; and
 - (a) be a recipient of Supplemental Security Income for disability, or Social Security for disability; or
 - (b) meet or be equivalent to one or more of the Medical Standards specified in 106 CMR 203.540; and/or
 - (c) it must substantially reduce his or her ability to support himself or herself when consideration is given to the vocational factors specified in 106 CMR 203.545.
- (2) If an incapacity has existed or is expected to exist for a period of 12 months, or is expected to lead to death, the applicant or recipient must inquire about and, where appropriate, apply for Social Security disability benefits and/or SSI for disability in accordance with 106 CMR 702.710: SSI Benefits.

(B) Incapacity Determination Process

The determination of whether a parent(s) meets the definition of incapacity shall be made by the agency or organization under contract/agreement with the Department to provide disability evaluation services based on:

- (1) medical and vocational information provided by the applicant or recipient on a form prescribed by the Department;
- (2) medical and vocational information obtained from his or her medical providers;
- (3) the medical standards specified in 106 CMR 203.540; and
- (4) the vocational standards specified in 106 CMR 203.545.

(C) Cooperation in the Incapacity Determination Process

- (1) An applicant or recipient is responsible for establishing that he or she is incapacitated. The Department shall assist the applicant or recipient in obtaining the necessary information and may require the applicant or recipient to attend an exam required by the agency or organization under contract/agreement with the Department to provide disability evaluation services.
 - (a) The applicant or recipient must provide the Department with:
 1. a description of his or her impairment(s) and a list of his or her medical providers; and
 2. information regarding the various vocational factors specified in 106 CMR 203.545(C) and, if applicable, 106 CMR 203.545(D).
 - (b) If an applicant or recipient, without good cause, does not appear for a scheduled medical examination, fails to provide required medical releases, or otherwise fails to cooperate in the incapacity determination process, the agency or organization under contract/agreement with the Department to provide disability evaluation services shall make a determination of incapacity based on such information as it has received from the applicant or recipient and other available sources.

Religious or personal reasons opposing medical examinations or tests do not constitute good cause.
- (2) The Department and, if applicable, its agents, shall take reasonable steps to assist applicants and recipients in obtaining the information that is necessary to make an incapacity determination.
 - (a) The worker and/or agent of the Department is responsible for assisting the applicant or recipient in completing the Disability Supplement when, after inquiry by the worker, such assistance is requested by the applicant or recipient.
 - (b) The agency or organization under contract/agreement with the Department to provide disability evaluation services is responsible for:
 1. gathering the information needed to make a disability determination by contacting any physician, psychologist, and/or hospital identified by the applicant or recipient, to obtain information on any impairment that may potentially affect the applicant's or recipient's ability to work provided such impairment(s) has been identified by the applicant or recipient or is otherwise evident in the record; and

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2. arranging for a competent medical authority(ies) to examine the applicant or recipient to obtain additional information or tests, as necessary, to clarify the incomplete or ambiguous clinical and/or vocational information that has been submitted to the Department by and/or obtained by the agency or organization under contract/agreement with the Department to provide disability evaluation services from a competent medical authority, physician, psychologist and/or hospital.
- (3) For those individuals who claim disability as the deprivation factor, failure to cooperate without good cause with the disability review process shall result in the denial or termination of TAFDC benefits for the entire assistance unit unless one of the parents qualifies as an unemployed parent as specified in 106 CMR 203.550.
- (D) When the agency or organization under contract/agreement with the Department to provide disability evaluation services is required to make a disability determination, the agency or organization shall determine in the order listed whether the applicant or recipient has an impairment or combination of impairments that:
 - (1) meets or is equivalent to a medical standard specified in 106 CMR 203.540; or
 - (2) neither meets nor is equivalent to a medical standard specified in 106 CMR 203.540, but the impairment, or combination of impairments, substantially reduces or eliminates the applicant's or recipient's ability to support himself or herself when consideration is given to the vocational factors specified in 106 CMR 203.545.

In making the determination of whether an impairment, or combination of impairments, substantially reduces or eliminates the applicant's or recipient's ability to support himself or herself, the impairment, or combination of impairments, shall not be compared to the medical standards specified in 106 CMR 203.540. The determination shall be based on the applicant's or recipient's functional capacity and his or her ability to do work in light of the vocational factors as specified in 106 CMR 203.545.
- (E) The agency or organization under contract/agreement with the Department to provide disability evaluation services shall make a determination that an applicant or recipient is not disabled only if:

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- (1) the agency or organization has considered all clinical and/or vocational evidence submitted by the applicant or recipient and/or obtained by the Department. The Department shall consider a test and diagnosis done more than 30 days prior to the completion of the applicant's or recipient's Disability Supplement if such evidence is still relevant to the applicant's or recipient's current impairment(s); and
 - (2) the clinical information available establishes that one or more of the findings required to meet the applicable medical standard is not satisfied and additional clinical information would not enable the applicant or recipient to meet such medical standard; and
 - (3) A vocational determination of not disabled is made pursuant to 106 CMR 203.545.
- (F) When an applicant or recipient requests his or her first claim of disability for deprivation pursuant to 106 CMR 203.530 or for an exemption pursuant to 106 CMR 203.100 within a continuous 60-month period specified in 106 CMR 203.200, disability is presumed and the applicant or recipient will qualify for deprivation pursuant to 106 CMR 203.530 or be exempt under 106 CMR 203.100 until or unless the decision of the agency or organization under contract/ agreement with the Department to provide disability evaluation services determines the applicant or recipient is not disabled.
- (G) When an applicant, who has previously been denied by the agency or organization under contract/agreement with the Department to provide disability evaluation services, makes another claim of disability within a continuous 60-month period specified in 106 CMR 203.200; and
- (1) the claim of disability is for deprivation pursuant to 106 CMR 203.530, eligibility must be established using the verification described in 106 CMR 701.380(B)(7). This verification may also be used to excuse the applicant from meeting the work program requirement specified in 106 CMR 203.400, if applicable; or
 - (2) the claim of disability is pursuant to 106 CMR 203.100 and the applicant has used 24 months of time-limited benefits as specified in 106 CMR 203.210, eligibility must be established using the verification described in 106 CMR 701.380(B)(7).
 - (a) If the applicant is requesting a time-limited benefits extension specified in 106 CMR 203.210, the verification described in 106 CMR 701.380(B)(7) may also be used to excuse the applicant from meeting the work activities related to qualifying for a time-limited benefits extension.
 - (b) If the applicant is not requesting a time-limited benefits extension, the verification described in 106 CMR 701.380(B)(7) may be used to excuse the applicant from meeting the work program requirement specified in 106 CMR 203.400, if applicable; or

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- (3) the claim of disability is pursuant to 106 CMR 203.100 and the applicant has not used 24 months of time-limited benefits specified in 106 CMR 203.210, the verification described in 106 CMR 701.380(B)(7) may be used to excuse the applicant from meeting the work program requirement specified in 106 CMR 203.400, if applicable.

If the verification described in 106 CMR 701.380(B)(7) is provided in accordance with 106 CMR 203.530(G)(1) and (2), eligibility for TAFDC will be presumed but the applicant will not be exempt under 106 CMR 203.100. The final disability determination will be made when the agency or organization providing disability evaluation services renders a decision on this disability claim. The length of the good cause period will be determined by the specified verification until the final disability determination is made by the agency or organization providing disability evaluation services.

If the verification described in 106 CMR 701.380(B)(7) is provided in accordance with 106 CMR 203.530(G)(3) the applicant will not be exempt under 106 CMR 203.100. The final disability determination will be made when the agency or organization providing disability evaluation services renders a decision on this disability claim. The length of the good cause period will be determined by the specified verification until the final disability determination is made by the agency or organization providing disability evaluation services.

- (H) When a recipient, who has been previously denied by the agency or organization under contract/agreement with the Department to provide disability evaluation services, makes another claim of disability within a continuous 60-month period specified in 106 CMR 203.200; and
- (1) the claim of disability is for deprivation pursuant to 106 CMR 203.530, continued eligibility must be established using the verification described in 106 CMR 701.380(B)(7). This verification may also be used to excuse the recipient from meeting the work program requirement specified in 106 CMR 203.400, if applicable; or
- (2) the claim of disability is pursuant to 106 CMR 203.100 and the recipient has used 24 months of time-limited benefits as specified in 106 CMR 203.210, the verification described in 106 CMR 701.380(B)(7) may be used to excuse the recipient from meeting the work activities related to qualifying for a time-limited benefits extension; or

- (3) the claim of disability is pursuant to 106 CMR 203.100 and the recipient has not used 24 months of time-limited benefits specified in 106 CMR 203.210, the verification described in 106 CMR 701.380(B)(7) may be used to excuse the recipient from meeting the work program requirement specified in 106 CMR 203.400, if applicable.

If the verification described in 106 CMR 701.380(B)(7) is provided in accordance with 106 CMR 203.530(H)(1)(2) or (3), the recipient will not be exempt under 106 CMR 203.100. The final disability determination will be made when the agency or organization providing disability evaluation services renders a decision on this disability claim. The length of the good cause period will be determined by the specified verification until the final disability determination is made by the agency or organization providing disability evaluation services.

- (I) The decision of the agency or organization under contract/agreement with the Department to provide disability evaluation services as to whether an applicant or recipient is disabled shall be the decision of the Department. A Department hearings referee may affirm, modify or reverse the finding of the agency or organization providing disability evaluation services.

203.540: Medical Standards(A) Musculoskeletal System

- (1) Arthritis of Any Major Joint. (hips, knees, hands or feet) Arthritis of any major joint must be substantiated by:
 - (a) the presence of three or more of the following clinical findings lasting for more than 15 days and expected to last for at least 30 days:
 1. pain;
 2. swelling;
 3. tenderness;
 4. warmth;
 5. redness;
 6. stiffness;
 7. limitation of motion; and
 - (b) corroboration of the diagnosis by at least two of the following:
 1. positive serologic test for rheumatoid factor; or anti-nuclear antibody or HLAB antigen;
 2. elevated sedimentation rate;
 3. positive joint fluid culture;
 4. elevation of white blood count;
 5. significant anatomical deformity; or
 6. x-ray evidence of significant joint space narrowing or bony destruction.
- (2) Disorders of the Spine. Disorders of the spine must be demonstrated by one of the following:
 - (a) x-ray evidence of significant arthritic changes manifested by ankylosis, or fixation, or motion limitation (objective);
 - (b) Bone density evidence of significant osteoporosis manifested by pain and real motion limitation;
 - (c) evidence of other vertebragenic disorders (for example, herniated nucleus pulposus or spinal stenosis), with:
 1. pain and significant limitation of motion in the spine; and
 2. appropriate radicular distribution of significant sensory, motor, or flex abnormalities; or
 - (d) evidence of acute back strain with pain and significant limitation of motion lasting more than 15 days and expected to last for at least 30 days.

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- (3) Fracture of a Major Bone. When solid union has not occurred and incapacity is expected to last for at least 30 days.
 - (4) Soft Tissue Injuries or Loss. Soft tissue injuries or loss, including burns, must be demonstrated by one of the following, which lasts more than 15 days and can be expected to last for at least 30 days:
 - (a) significant loss which prohibits function of an upper or lower extremity;
 - (b) significant body surface involvement; or
 - (c) involvement of critical areas such as hands and feet that prevents their use.
- (B) Special Senses and Speech
- (1) Impairment of Central Visual Acuity. Remaining vision in the better eye after best correction must be 20/100 or less and must be expected to last for at least 30 days.
 - (2) Contraction of Peripheral Visual Fields. Contraction of peripheral visual fields in the better eye must be:
 - (a) to 20° or less from point of fixation;
 - (b) so the widest diameter subtends an angle no greater than 25° ; or
 - (c) to 25 percent or less visual field efficiency; and must be expected to last at least 30 days.
 - (3) Hearing Impairments. Hearing must not be restorable by a hearing aid, and the impairment must be manifested by one of the following:
 - (a) average hearing threshold sensitivity for air conduction of 90 decibels or greater; and for bone conduction to corresponding maximal levels, in the better ear, determined by the simple average of hearing threshold levels at 500, 1000, and 2000 Hz; or
 - (b) speech discrimination scores of 40 percent or less in the better ear; and must be expected to last for at least 30 days.
 - (4) Disturbance of Labyrinthine-Vestibular Function. Disturbance of labyrinthine-vestibular function (including Meniere's disease) must be demonstrated by one or more attacks of balance disturbance and tinnitus within the 30-day period immediately preceding application for Emergency Aid to the Elderly and Disabled assistance. The symptoms must persist for at least 30 days and affect daily functions and the diagnosis must be corroborated by:
 - (a) hearing loss established by audiometry; or
 - (b) Standard vestibular test (ENG) with or without hearing loss established by audiometry.

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(C) Respiratory System

- (1) Chronic Obstructive Airway Disease. Spirometric evidence of airway obstruction must be demonstrated by maximum voluntary ventilation (MVV) and one-second forced expiratory volume (FEV1) with both values equal to or less than those specified in Table I, corresponding to height; and expected to last for at least 30 days.

Table I

Height (inches)	MVV (MBC) equal to or less than (L/Min)	And	FEV1 equal to or less than (L)
57 or less	42		1.5
58	43		1.5
59	44		1.5
60	45		1.6
61	46		1.6
62	47		1.6
63	48		1.6
64	49		1.7
65	50		1.7
66	51		1.7
67	52		1.8
68	53		1.8
69	54		1.8
70	55		1.9
71	56		1.9
72	57		1.9
73 or more	58		1.9

- (2) Diffuse Pulmonary Fibrosis. Diffuse pulmonary fibrosis due to any cause must be demonstrated by both of the following, and expected to last for at least 30 days.

- (a) Total vital capacity (VC) must be equal to or less than the values specified in Table II below, corresponding to height.

Table II

Height or less than (inches)	VC equal to (L)
57 or less	1.7
58	1.8
59	1.8
60	1.9
61	1.9
62	2.0
63	2.0
64	2.1
65	2.1
66	2.2
67	2.2
68	2.3
69	2.3
70	2.4
71	2.4
72	2.5
73 or more	2.5

- (b) Arterial oxygen tension (po2) at rest and simultaneously determined arterial carbon dioxide tension (PCO2) values must be equal to or less than those specified in Table III below.

Table III

Arterial pco2 (mm Hg)	Arterial po2 equal to or less than (mm Hg)
30 or below	75
31	74
32	73
33	72
34	71
35	70
36	69
37	68
38	67
39	66
40 or above	65

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- (3) Other Restrictive Ventilatory Disorders. Other restrictive ventilatory disorders (such as kyphoscoliosis, thoracoplasty, and pulmonary resection) must be substantiated by total vital capacity (VC) equal to or less than the values specified in Table IV below, corresponding to height; and expected to last at least 30 days.

Table IV

Height (inches)	VC equal to or less than (L)
59	1.5
60	1.6
61	1.6
62	1.6
63	1.6
64	1.7
65	1.7
66	1.7
67	1.8
68	1.8
69	1.8
70	1.9

- (4) Active Pulmonary Tuberculosis. Active pulmonary tuberculosis must be corroborated by either:
- (a) positive culture; or
 - (b) x-ray evidence of increasing lesions or cavitation; and expected to last at least 30 days.
- (5) Other Respiratory Disorders. Other respiratory disorders must be shown by the presence of at least two of the following ((a), (b), or (c) below) for more than 15 days and expected to last at least 30 days:
- (a) shortness of breath, wheezing, rhonchi, rales, cough, or fever;
 - (b) significant x-ray changes; or
 - (c) significant laboratory abnormalities.

(D) Cardiovascular System

- (1) Open Heart Surgery. The period of incapacity will be expected to last at least 30 days and meet the criteria in 106 CMR 203.540(D) (3) or (4) below.

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- (2) Ischemic Heart Disease.
- (a) Ischemic heart disease, with chest pain of cardiac origin, must be corroborated by one of the following:
1. significantly diminished exercise tolerance corroborated by results of ETT;
 2. significant ischemic changes on resting EKG;
 3. EKG evidence of myocardial infarction at some time and symptoms if EKG evidence is more than 6 months old;
 4. development of significant arrhythmia;
 5. angiographic evidence (obtained independently) of coronary artery disease; or
 6. development of left bundle branch block.
- (b) If ischemic heart disease is ruled out after an extensive work-up the period of incapacity will be 90 days if:
1. symptoms lasted at least 15 days; or
 2. substantial work activity is precluded by a physician's orders for at least 90 days.
- (3) Congestive Heart Failure. Congestive heart failure must be manifested by evidence of vascular congestion such as hepatomegaly, or peripheral or pulmonary edema; with either of the following present; and expected to last at least 30 days.
- (a) evidence of congestive heart failure on clinical examination; or
- (b) significant x-ray or EKG changes.
- (4) Arteriosclerosis Obliterans or Thromboangiitis. Arteriosclerosis obliterans or thromboangiitis must be substantiated by both:
- (a) intermittent claudication; and
- (b) absence of peripheral arterial pulsations below the knee; and be expected to last for at least 30 days.
- (5) Venous Insufficiency of the Lower Extremity. Venous insufficiency of the lower extremity must be expected to last at least 30 days and be associated with two or more of the following:
- (a) varicosities;
- (b) brawny edema;
- (c) stasis dermatitis;
- (d) ulceration;

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Nonfinancial Eligibility(E) Digestive System

Impairments affecting the digestive system that are considered incapacitating are listed in 106 CMR 203.540(E)(1) through (3) below.

(1) Gastrointestinal Disorders

- (a) Gastrointestinal disorders must be substantiated by the presence of three or more of the following symptoms lasting more than seven days and expected to last at least 30 days:
 - 1. pain;
 - 2. nausea;
 - 3. vomiting;
 - 4. diarrhea;
 - 5. bloody stools; or
 - 6. abdominal distension
- (b) Gastrointestinal disorders expected to last more than 90 days must demonstrate the presence of clinical findings under 1. and 2. below.
 - 1. significant pathology demonstrated by x-ray, endoscopy, barium enema, biopsy, or other objective criteria; or
 - 2. the presence of one of the following:
 - a. abscess or fistula formation;
 - b. hematocrit of 30 percent or less;
 - c. serum albumin of 3.0 g per deciliter (100 ml) or less;
 - d. serum calcium of 8.0 mg per deciliter;
 - e. fat in stool of 7.0 m or greater per 24-hour specimen;
 - f. nitrogen in stool of 3.0 g or greater per 24-hour specimen;
 - g. evidence of pancreatic dysfunction; or
 - h. systemic manifestations such as arthritis, iritis, or liver dysfunction not attributable to other causes.

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(2) Diseases of the Liver(a) Acute Hepatitis (Viral A, B, Non-A, Non-B).

Incapacity expected to last more than 90 days must meet the criteria in 106 CMR 203.540(E)(2)(b) below.

(b) Chronic Liver Disease. Chronic liver diseases (portal, postnecrotic, or biliary cirrhosis, chronic active hepatitis, Wilson's disease) must be substantiated by a history of significant and unresolved hyperbilirubinemia, ascites due to hypoalbuminemia, or mental confusion lasting more than 15 days and expected to last at least 30 days; or if the impairment persists is expected to last more than 90 days and is accompanied by confirmation of liver disease by liver biopsy and demonstration (clinical) of 2 (two) of the following: below:

1. bleeding from esophageal varices or
2. hepatic cell necrosis or inflammation,
3. hepatic encephalopathy

(3) Weight Loss. Weight loss due to any gastrointestinal disorder must be substantiated by weight equal to or less than the values specified in Table V (for men) or Table VI (for women), corresponding to height and expected to last at least 30 days.

Table V -- Men

Height (inches)	Weight (pounds)
61	95
62	98
63	100
64	103
65	106
66	109
67	112
68	116
69	119
70	122
71	126
72	129
73	133
74	136
75	139
76	143

Table VI -- Women

Height (inches)	Weight (pounds)
61	82
62	84
63	87
64	89
65	92
66	94
67	97
68	100
69	104
70	107
71	111
72	114
73	117
74	121
75	124
76	128

Weight loss which continues for more than 90 days despite treatment and proper nutrition, must meet the criteria in 106 CMR 203.540(E)(1) or (2)(b) above.

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Nonfinancial Eligibility(F) Genitourinary System

Impairment of Renal Function. Impairment of renal function due to any cause must be substantiated by one of the following, which lasts more than 15 days and can be expected to last at least 30 days:

- (1) elevation of serum creatinine;
- (2) hematocrit of 30 percent or less;
- (3) renal osteodystrophy manifested by bone pain and appropriate radiographic abnormalities;
- (4) documented fluid overload syndrome;
- (5) anorexia;
- (6) hemodialysis or peritoneal dialysis; or
- (7) proteinuria.

(G) Hemic and Lymphatic Systems

- (1) Anemia. Anemia must be substantiated by one of the following:
 - (a) hematocrit of 30 percent or less if, acute or not tolerated or
 - (b) one or more blood transfusions required within the 30-day period immediately preceding application for TAFDC assistance; and the incapacity is expected to last at least 30 days.
- (2) Sickle Cell Disease. Sickle cell disease or one of its variants must be substantiated by a documented painful (thrombotic) crisis within the 30 day period immediately preceding application for TAFDC assistance; and expected to last for at least 30 days.
- (3) Hemorrhage. Hemorrhage due to any traumatic or nontraumatic cause must be substantiated by one or more blood transfusions required within the 30-day period immediately preceding application for TAFDC assistance.

(H) Skin

All skin disorders and infections that last more than 15 days and that can be expected to last for at least 30 days will possibly be considered incapacitating when one of the following is present.

- (1) Involvement of extensive body areas; or
- (2) Involvement of critical areas such as hands, feet, axillae, perineum, or face.

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Nonfinancial Eligibility(I) Endocrine System

Diabetes mellitus must be substantiated by one of the following:

- (1) Peripheral neuropathy manifested by decreased sensation and loss of vibration and positional sense;
- (2) Significant visual impairment according to the criteria in the 106 CMR 203.540(B)(1) and (2), Special Senses and Speech;
- (3) Amputation due to diabetic necrosis or peripheral vascular disease; or
- (4) a documented episode of acidosis within the 30-day period immediately preceding application for TAFDC assistance; and the incapacity is expected to last for at least 30 days.

(J) Multiple Body Systems

- (1) Lupus Erythematosus. Disseminated lupus erythematosus must be established by a positive LE preparation or biopsy or positive ANA test. Exacerbation (involving renal, cardiac, pulmonary, gastrointestinal, or central nervous systems) must have occurred within the 30-day period immediately preceding application for TAFDC assistance, and have lasted more than 15 days and be expected to last for at least 30 days.
- (2) Obesity. Obesity must be substantiated by weight equal to or greater than the values specified in Table VII for males or Table VIII for females and one of the following:
 - (a) a history of significant pain and limitation of motion in any weight-bearing joint or the spine;
 - (b) significant hypertension;
 - (c) a history of significant cardiovascular difficulties;
 - (d) chronic venous insufficiency with pain or superficial varicosities; or
 - (e) significant respiratory difficulties; and

The incapacity is expected to last for at least 30 days.

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Table VII -- Men		Table VIII -- Women	
Height (inches)	Weight (pounds)	Height (inches)	Weight (pounds)
60	. . . . . 246	56	. . . . . 208
61	. . . . . 252	57	. . . . . 212
62	. . . . . 258	58	. . . . . 218
63	. . . . . 264	59	. . . . . 224
64	. . . . . 270	60	. . . . . 230
65	. . . . . 276	61	. . . . . 236
66	. . . . . 284	62	. . . . . 242
67	. . . . . 294	63	. . . . . 250
68	. . . . . 302	64	. . . . . 258
69	. . . . . 310	65	. . . . . 266
70	. . . . . 318	66	. . . . . 274
71	. . . . . 328	67	. . . . . 282
72	. . . . . 336	68	. . . . . 290
73	. . . . . 346	69	. . . . . 298
74	. . . . . 356	70	. . . . . 306
75	. . . . . 364	71	. . . . . 314
76	. . . . . 374	72	. . . . . 322

(K) Neurological System

- (1) Central Nervous System Vascular Accident. The period of incapacity is expected to last for at least 30 days and two of the following persists:
 - (a) ineffective speech or communication;
 - (b) significant disorganization of motor function in one or more extremities interfering with locomotion or use of fingers, hands and arms; and
 - (c) significant mental status abnormalities.
- (2) Epilepsy - major motor seizures, (or partial complex), documented by EEG and by clinically detailed description of a typical seizure pattern, including all associated phenomena; occurring more frequently than once a month, in spite of at least 1 month of prescribed treatment; expected to last at least 30 days with:
 - (a) Daytime episodes (loss of consciousness and convulsive seizures); or
 - (b) Nocturnal episodes manifesting residuals which interfere significantly with activity during the day.

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- (3) Epilepsy - Minor seizures (petit mal, psychomotor, or focal), documented by EEG and by detailed description of a typical seizure pattern, including all associated phenomena; occurring more frequently than once weekly in spite of at least 1 month of prescribed treatment: with alteration of awareness or loss of consciousness and transient postictal manifestations of unconventional behavior or significant interference with activity during the day; and expected to last for at least 30 days.
- (4) Parkinsonian syndrome with the following signs: Significant rigidity, bradykinesia, or tremor in two extremities or one, if in dominant hand with significant loss of dexterity which, singly or in combination, result in sustained disturbance of gross and dexterous movements, or gait and station; and expected to last for at least 30 days.
- (5) Spinal cord or nerve root lesions, due to any course with disorganization of motor function expected to last for at least 30 days with significant and persistent disorganization of motor function in a single extremity, resulting in sustained disturbance of gross and dexterous movements, or gait and station.
- (6) Multiple sclerosis, with disorganization of motor function expected to last for at least 30 days with:
 - (a) significant and persistent disorganization of motor function in two extremities, or one dominant upper extremity, resulting in sustained disturbance of gross and dexterous movements, or gait and station; or marked motor fatiguability;
 - (b) impairment of central visual acuity. Remaining vision in the better eye after best correction must be 20/100 or less and must be expected to last at least 30 days.
 - (c) contraction of peripheral visual fields. Contraction of peripheral vision fields in the better eye that is expected to last at least 30 days must be:
 - (1) To 20° or less from the point of fixation; or
 - (2) So the widest diameter subtends an angle no greater than 25°; or
 - (3) To 25 percent or less visual field efficiency; or
- (7) Myasthenia gravis expected to last for at least 30 days with:
 - (a) significant difficulty with speaking, swallowing, or breathing while on prescribed therapy; or
 - (b) significant motor weakness of muscles of extremities on repetitive activity against resistance while on prescribed therapy.
- (8) Myotonic muscular dystrophy with disorganization of motor function expected to last for at least 30 days with significant and persistent disorganization of motor function in two extremities, resulting in sustained disturbance of gross and dexterous movements, or gait and station.

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- (9) Peripheral neuropathies. With disorganization of motor function in spite of prescribed treatment expected to last for at least 30 days with significant and persistent disorganization of motor function in one extremity, resulting in sustained disturbance of gross and dexterous movements, or gait and station.
 - (10) Subacute combined cord degeneration (pernicious anemia) with disorganization of motor function as described below not significantly improved by prescribed treatment and expected to last for at least 30 days with:
 - (a) significant and persistent disorganization of motor function in one extremity, resulting in sustained disturbance of gross and dexterous movements, or gait and station; and
 - (b) unsteady, broad-based or ataxic gait causing significant restriction of mobility substantiated by appropriate posterior column signs.
 - (11) Cerebral trauma: Evaluate under the provisions for epilepsy - Major motor, epilepsy - minor motor, cerebral nervous system vascular accident or organic mental disorders.
- (L) Mental Disorders
- (1) The following definitions should be used when referencing this section.
 - (a) **Need for Medical Evidence:** The existence of a medically determinable impairment must be established by medical evidence consisting of clinical signs, symptoms and/or laboratory test findings. These findings may be intermittent or persistent depending on the nature of the disorder. Clinical signs are medically demonstrable phenomena which reflect specific abnormalities of behavior, affect, thought, memory, orientation or contact with reality. These signs are typically assessed by a psychiatrist. Symptoms or complaints are presented by the individual. Signs and symptoms generally cluster together to constitute recognizable clinical syndromes (mental disorders). Both symptoms and signs which are part of any diagnosed mental disorder must be considered in evaluating severity.
 - (b) **Assessment of Severity:** For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Where "marked" is used as a standard for measure the degree of limitation, it means more than moderate, but less than extreme. A marked limitation may arise when several activities or functions are impaired or even when only one is impaired, so long as the degree of limitation is such as to seriously interfere with the ability to function independently, appropriately and effectively.

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1. Activities of daily living including adaptive activities such as cleaning, shopping, cooking, taking public transportation, paying bills, maintaining a residence, caring appropriately for one's grooming and hygiene, using telephones and directories, using a post office, etc.. In the context of the individual's overall situation, the quality of these activities is judged by their independence, appropriateness and effectiveness. It is necessary to define the extent to which the individual is capable of initiating and participating in activities independent of supervision or direction.

"Marked" is not the number of activities which are restricted but the overall degree of restriction or combination of restrictions which must be judged.

2. Social functioning refers to an individual's capacity to interact appropriately and communicate effectively with other individuals. "Marked" is not the number of areas in which social functioning is impaired, but the overall degree of interference in a particular area or combination of areas of functioning.
3. Concentration, persistence and pace refer to the ability to sustain focused attention sufficiently long to permit the timely completion of tasks commonly found in work settings. In activities of daily living, concentration may be reflected in terms of ability to complete tasks in everyday household routines. Deficiencies in concentration, persistence and pace are best observed in work and work-like settings.
4. Documentation: The presence of a mental disorder should be documented primarily on the basis of reports from individual providers, such as psychiatrists, and facilities such as hospitals and clinics. Adequate descriptions of functional limitations must be obtained from these or other sources which may include programs and facilities where the individual has been observed over a considerable period of time.

Information from both medical and nonmedical sources may be used to obtain detailed descriptions of the individual's activities of daily living; social functioning; concentration, persistence and pace; or ability to tolerate increased mental demands (stress). This information can be provided by programs such as community mental health centers, day care centers, sheltered workshops, etc. It can also be provided by others, including family members, who have knowledge of the individual's functioning. In some cases descriptions of activities of daily living or social functioning given by individuals or treating sources may be insufficiently detailed and/or may be in conflict with the clinical picture otherwise observed or

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described in the examination or reports. Evidence may include treatment notes, hospital discharge summaries, and work evaluation or rehabilitation progress notes if these are available. It is necessary to resolve any inconsistencies or gaps that may exist in order to obtain a proper understanding of the individual's functional restrictions.

Some individuals may have attempted to work or may actually have worked during the period of time pertinent to the determination of disability. This may have been an independent attempt at work, or it may have been in conjunction with a community mental health or other sheltered program which may have been of either short or long duration. Information concerning the individual's behavior during any attempt to work and the circumstances surrounding termination of the work effort are particularly useful in determining the individual's ability or inability to function in a work setting.

5. **Chronic Mental Impairments:** Particular problems are often involved in evaluating mental impairments in individuals who have long histories of repeated hospitalizations or prolonged outpatient care with supportive therapy and medication. Individuals with chronic psychotic disorders commonly have their lives structured in such a way to minimize stress and reduce their signs and symptoms. Such individuals may be much more impaired for work than their signs and symptoms would indicate. The results of a single examination may not adequately describe these individuals' sustained ability to function. It is therefore, vital to include all pertinent and available information relative to the individual's condition, especially at times of increased stress.
6. **Effect of Medication.** Attention must be given to the effect of medication on the individual's signs, symptoms and ability to function. While psychotropic medications may control certain primary manifestations of a mental disorder, e.g., hallucinations, such treatment may or may not affect the functional limitations imposed by the mental disorder. In such cases where overt symptomatology is attenuated by the psychotropic medications, particular attention should be included on the functional restrictions which may persist. These functional restrictions are important for the measure of impairment severity.

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Neuroleptics, the medicines used in the treatment of some mental illnesses, may cause drowsiness, blunted effect, or other side effects involving other body systems. Such side effects must be considered in evaluating overall impairment severity. Where adverse effects of medications contribute to the impairment severity and the impairment does not meet the listings but is nonetheless severe, such adverse effects must be considered in the assessment of the disability.

7. Effect of Treatment: It must be remembered that with adequate treatment some individuals suffering with chronic mental disorders not only have their symptoms and signs ameliorated but also return to a level of function close to that of their premorbid status.
- (2) Dementia with or without delirium. Psychological, cognitive or behavioral abnormalities associated with a dysfunction of the brain. History and physical examination or laboratory tests demonstrate the presence of specific organic factor judges to be etiologically related to the abnormal mental state and loss of previously acquired functional abilities.

The required level of severity for these disorders is met when the requirements in both (a) and (b) are satisfied; and they are expected to last for at least 30 days.

- (a) Demonstration of loss of specific cognitive abilities or affective changes and the medically documented persistence of at least one of the following:
 1. disorientation to time and place; or
 2. substantial memory loss impairment
 3. perceptual or thinking disturbances (e.g., hallucinations, delusions); or
 4. change in personality; or
 5. disturbance in mood; or
 6. emotional liability (e.g., explosive temper outbursts, sudden crying, etc.) and impairment in impulse control; or
 7. loss of measured intellectual ability of at least 15 I.Q. points from premorbid levels or overall impairment index clearly within the moderately to severely impaired range on neuropsychological testing, e.g., the Luria-Nebraska, Halstead-Reitan, etc.; and

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(b) Resulting in at least one of the following:

1. marked restriction of activities of daily living; or
2. marked difficulties in maintaining social functioning; or
3. deficiencies of concentration, persistence or pace resulting in frequent failure to complete tasks in a timely manner (in work settings or elsewhere); or
4. repeated episodes of deterioration or decompensation in work or work-like settings which cause the individual to withdraw from that situation or to experience exacerbation of signs and symptoms (which may include deterioration of adaptive behaviors).

(3) Schizophrenic, Paranoid and Other Psychotic Disorders. Characterized by the onset of psychotic features with deterioration from a previous level of functioning.

The required level of severity for these disorders is met when the requirements in both (a) and (b) are satisfied, or when the requirement in (c) are satisfied; and they are expected to last for at least 30 days.

(a) Medically documented persistence, either continuous or intermittent, of one or more of the following:

1. delusions or hallucinations; or
2. catatonic or other grossly disorganized behavior; or
3. incoherence, loosening of associations, illogical thinking, or poverty or content of speech if associated with one of the following:
 - i. blunt affect; or
 - ii. flat affect; or
 - iii. inappropriate affect; or
4. emotional withdrawal and/or isolation; and

(b) Resulting in at least one of the following:

1. marked restriction of activities of daily living; or
2. marked difficulties in maintaining social functioning; or
3. deficiencies of concentration, persistence or pace resulting in frequent failure to complete tasks in a timely manner (in work settings or elsewhere); or
4. repeated episodes of deterioration or decompensation in work or work-like settings which cause the individual to withdraw from that situation or to experience exacerbation of signs and symptoms (which may include deterioration of adaptive behaviors); or

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- (c) Medically documented history of one or more episodes of acute symptoms, signs and functional limitations which at the time met the requirements in (a) and (b) of this listing, although these symptoms or signs are currently attenuated by medication or psychosocial support, and one of the following:
- (1) repeated episodes of deterioration or decompensation in situations which cause the individual to withdraw from the situation or to experience exacerbation of signs or symptoms (which may include deterioration of adaptive behaviors); or
 - (2) documented current history of two or more years inability to function outside of a highly supportive living situation.
- (4) Affective Disorders. Characterized by a disturbance of mood, accompanied by a full or partial manic or depressive syndrome. Mood refers to a prolonged emotion that colors the whole psychic life; generally involving either depression or elation.

The required level of severity for these disorders is met when the requirements in both (a) and (b) are satisfied; and they are expected to last at least 30 days.

- (a) Medically documented persistence, either at least one of the following:
1. depressive syndrome characterized by at least three of the following:
 - a. anhedonia or pervasive loss of interest in almost all activities; or
 - b. appetite disturbance with change in weight; or
 - c. sleep disturbance; or
 - d. psychomotor agitation or retardation; or
 - e. decreased energy; or
 - f. feelings of guilt or worthlessness; or
 - g. difficulty concentrating or thinking; or
 - h. thoughts of suicide; or
 - i. hallucinations, delusions or paranoid thinking; or

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2. Manic syndrome characterized by at least two of the following:
 - a. hyperactivity; or
 - b. pressure of speech; or
 - c. flight of ideas; or
 - d. inflated self-esteem; or
 - e. decreased need for sleep; or
 - f. easy distractibility; or
 - g. involvement in activities that have a high probability of painful consequences which are not recognized; or
 - h. hallucinations, delusions or paranoid thinking; or
3. Bipolar syndrome with a history of episodic periods manifested by the full symptomatic picture of both manic and depressive syndromes (and currently characterized by either or both syndromes); and

(b) Resulting in at least one of the following:

1. marked restriction of activities of daily living; or
2. marked difficulties in maintaining social functioning; or
3. deficiencies of concentration, persistence or pace resulting in frequent failure to complete tasks in a timely manner (in working settings or elsewhere); or
4. repeated episodes of deterioration or decompensation in work or work-like settings which cause the individual to withdraw from that situation or to experience exacerbation of signs and symptoms (which may include deterioration of adaptive behaviors).

- (5) Mental Retardation and Autism. Mental retardation refers to a significantly subaverage general intellectual functioning with deficits in adaptive behavior initially manifested during the developmental period (before age 22). (Note: The scores specified below refer to those obtained on the WAIS, and are used only for reference purposes. Scores obtained on other standardized and individually administered tests are acceptable, but the numerical values obtained must indicate a similar level of intellectual functioning.) Autism is a pervasive developmental disorder characterized by social and significant communication deficits originating in the developmental period.

The required level of severity for this disorder is met when the requirements in (a), (b), (c), or (d) are satisfied.

- (a) Mental incapacity evidenced by dependence upon others for personal needs e.g., toileting, eating, dressing, or bathing, an inability to follow directions, such that the use of standardized measures of intellectual functioning is precluded; or
- (b) A valid verbal, performance, or full scale IQ of 59 or less;
- (c) A valid verbal, performance, or full scale IQ of 60 to 69 inclusive and a physical or other mental impairment imposing additional and significant work-related limitation of function; or

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- (d) A valid verbal, performance, or full scale IQ of 60 to 69 inclusive or in the case of autism, gross deficits of social and communicative skills with one of the following:
1. marked restriction of activities of daily living; or
 2. marked difficulties in maintaining social functioning; or
 3. deficiencies of concentration, persistence or pace resulting in frequent failure to complete tasks in a timely manner (in work settings or elsewhere); or
 4. repeated episodes of deterioration or decompensation in work or work-like settings which cause the individual to withdraw from that situation or to experience exacerbation of signs and symptoms (which may include deterioration or adaptive behaviors).

- (6) Anxiety Related Disorders. In these disorders anxiety is either the predominant disturbance or it is experienced if the individual attempts to master symptoms; for example, confronting the dreaded object or situation in a phobic disorder or resisting the obsessions or compulsions in obsessive compulsive disorders.

The required level of severity for these disorders is met when the requirements in both (a) and (b) are satisfied, or when the requirements in both (a) and (c) are satisfied; and the incapacity is expected to last at least 30 days.

- (a) Medically documented findings of at least one of the following:
1. generalized persistent anxiety accompanied by two out of four of the following signs or symptoms:
 - a. motor tension; or
 - b. autonomic hyperactivity; or
 - c. apprehensive expectation; or
 - d. vigilance and scanning; or
 2. a persistent irrational fear of a specific object, activity, or situation; or
 3. recurrent severe panic attacks manifested by a sudden unpredictable onset of intense apprehension, fear, terror and sense of impending doom occurring on the average of at least once a week; or
 4. recurrent obsessions or compulsions which are a source of marked distress; or
 5. recurrent and intrusive recollections of a traumatic experience, which are a source of marked distress; and

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- (b) Resulting in at least one of the following:
1. marked restriction of activities of daily living; or
 2. marked difficulties in maintain social functioning; or
 3. deficiencies of concentration, persistence or pace resulting in frequent failure to complete tasks in a timely manner (in work settings or elsewhere); or
 4. repeated episodes of deterioration or decompensation in work or work-like settings which cause the individual to withdraw from that situation or to experience exacerbation of signs and symptoms (which may include deterioration of adaptive behaviors); or
- (c) resulting in complete inability to function independently outside the area of one's home.

- (7) Psychophysiological Disorders. Physical symptoms for which there are no demonstrable organic findings or known physiological mechanisms.

The required level of severity for these disorders is met when the requirements in both (a) and (b) are satisfied; and the incapacity is expected to last for at least 30 days.

- (a) Medically documented by evidence of one of the following:
1. a history of multiple physical symptoms of several years duration, beginning before age 30, that have caused the individual to take medicine frequently, see a physician often and alter life patterns significantly; or
 2. persistent nonorganic disturbance of one of the following:
 - i. vision; or
 - ii. speech; or
 - iii. hearing; or
 - iv. use of a limb; or
 - v. movement and its control (e.g., coordination disturbance, psychogenic seizures, akinesia, dyskinesia); or
 - vi. sensation (e.g., diminished or heightened).
 3. Unrealistic interpretation of physical signs or sensations associated with the preoccupation or belief that one has a serious disease or injury; and

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(b) Resulting in two of the following:

1. marked restriction of activities of daily living; or
2. marked difficulties in maintaining social functioning; or
3. deficiencies of concentration, persistence or pace resulting in frequent failure to complete tasks in a timely manner (in work settings or elsewhere); or
4. repeated episodes of deterioration or decompensation on work or work-like settings which cause the individual to withdraw from that situation or to experience exacerbation of signs and symptoms (which may include deterioration of adaptive behavior).

(8) Personality Disorders. A personality disorder exists when personality traits are inflexible and maladaptive and cause either significant impairment in social or occupational functioning or subjective distress. Characteristic features are typical of the individual's long term functioning and are not limited to discrete episodes of illness.

The required level of severity for these disorders is met when the requirements in both (a) and (b) are satisfied; and the incapacity is expected to last at least 30 days.

(a) Deeply ingrained, maladaptive patterns of behavior associated with one of the following:

1. seclusiveness or autistic thinking; or
2. pathologically inappropriate suspiciousness or hostility; or
3. oddities of thought, perception, speech and behavior; or
4. persistent disturbances of mood or affect; or
5. pathological dependence, passivity, or aggressivity; or
6. intense and unstable interpersonal relationships and impulsive and damaging behavior; and

(b) Resulting in two of the following:

1. marked restriction of activities of daily living; or
2. marked difficulties in maintaining social functioning; or
3. deficiencies of concentration, persistence or pace resulting in frequent failure to complete tasks in a timely manner (in work settings or elsewhere); or
4. repeated episodes of deterioration or decompensation in work or work-like settings which cause the individual to withdraw from that situation or to experience exacerbation of signs and symptoms (which may include deterioration of adaptive behavior).

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- (9) Substance Addiction Disorders. Physical changes or behavioral changes associated with the regular use of legal substances that affect the central nervous system when accompanied by an impairment listed elsewhere in these standards.

The required level of severity for these substance addiction disorders is met when the requirements in any of the following disorders (a through i) are satisfied; and the incapacity is expected to last for at least 30 days.

- (a) Organic mental disorders. Evaluate under Dementia with or without Delirium (106 CMR 203.540(L)(2)).
- (b) Depressive syndrome. Evaluate under Affective Disorders (106 CMR 203.540(L)(4)).
- (c) Anxiety disorders. Evaluate under Anxiety Related Disorders (106 CMR 203.540(L)(6)).
- (d) Personality disorders. Evaluate under Personality Disorders (106 CMR 203.540(L)(8)).
- (e) Peripheral neuropathies. Evaluate under Neurological System Impairments (106 CMR 203.540(K)).
- (f) Liver damage. Evaluate under Digestive System Impairments (Diseases of the Liver) (106 CMR 203.540(E)(2)).
- (g) Gastritis. Evaluate under Digestive System Impairments (Diseases of the Liver) (106 CMR 203.540(E)(2)).
- (h) Pancreatitis. Evaluate under Digestive System Impairments (Gastrointestinal Disorders) (106 CMR 203.540(E)(1)).
- (i) Seizures. Evaluate under Neurological System Impairments (Epilepsy - Major Motor Seizure and Epilepsy - Minor Motor Seizure) (106 CMR 203.540(K)(2) and (3)).

(M) Immuno-Suppressive Disorders

- (1) Indicator Diseases Diagnosed Definitively: The required level of incapacity associated with the following is met when the incapacity is expected to last for at least 30 days.
- (a) Candidiasis of the esophagus, trachea, bronchi, or lungs.
 - (b) Coccidioidomycosis, disseminated (at a site other than or in addition to lungs or cervical or hilar lymph nodes).
 - (c) Cryptococcosis, extrapulmonary.
 - (d) Cryptosporidiosis with diarrhea persisting over one month.
 - (e) Cytomegalovirus disease of an organ other than liver, spleen, lymph nodes in an individual over one month of age.
 - (f) Genital herpes, chronic, recurrent, wide spread, resistant to therapy.
 - (g) Herpes simplex virus infection causing a mucocutaneous ulcer that persists longer than one month, or bronchitis, pneumonitis, or esophagitis for any duration affecting an individual over one month of age.

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- (h) HIV encephalopathy (also called "HIV dementia," AIDS dementia", or "subacute encephalitis due to HIV")
 - (i) Histoplasmosis, disseminated (at a site other than or in addition to lungs or cervical or hilar lymph nodes).
 - (j) Isoporiasis with diarrhea persisting over one month.
 - (k) Kaposi's sarcoma at any age.
 - (l) Leukoencephalopathy, progressive multifocal leukoencephalopathy.
 - (m) Lymphoma of the brain (primary) at any age.
 - (n) Lymphoid interstitial pneumonia and/or pulmonary lymphoid hyperplasia (LIP/PLH complex) affecting a child less than 13 years of age.
 - (o) Any mycobacterial disease caused by mycobacteria other than M. tuberculosis, disseminated (at a site other than or in addition to lungs, skin, or cervical or hilar lymph nodes).
 - (p) Pneumocystis carinii pneumonia.
 - (q) Pelvic inflammatory disease, chronic, recurrent, resistant to therapy.
 - (r) Salmonella (nontyphoid) septicemia, recurrent.
 - (s) Systemic toxoplasmosis.
 - (t) Toxoplasmosis, of the brain.
 - (u) One of the following with documented HIV infection:
 - (1) Anal squamous cell carcinoma.
 - (2) Invasive carcinoma of cervix, FIGO stage II or more.
 - (3) Nocardiosis.
 - (4) Non-Hodgkins lymphoma.
 - (5) Strongyloidiasis, extra-intestinal.
- (2) Individuals should be considered to have an impairment that equals the severity of the listings with or without documented evidence of HIV infection and the following laboratory and clinical features:
- (a) A T4 lymphocyte count of less than or equal to 200 cells/mm³ (or 25 percent or less T4 lymphocytes); OR
 - (b) One or more of the following persisting over a two-month period:
 1. Anemia (Hematocrit value less than 30 percent);
 2. Granulocytopenia (absolute neutrophil count less than or equal to 1000/mm³);
 3. Thrombocytopenia (platelet count less than or equal to 40,000/mm³);
 4. Documented fever (daily greater than or equal to 100.4 °F or 38 °C);
 5. Undesired weight loss greater than or equal to 10 percent of baseline;
 6. Oral recurrent candidiasis;
 7. Oral hairy leukoplakia;
 8. Recurrent herpes zoster;
 9. Persistent, unresponsive diarrhea;

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10. Mucosal (including vulvovaginal candidiasis other than listed in 106 CMR 320.210(M)(1)(a) or new added vulvovaginal conditions);
 11. Persistent dermatological conditions such as eczema or psoriasis.
 12. Persistent or recurrent radiographically documented sinusitis; AND
- (c) Interference with activities of daily living resulting in marked restriction of activities of daily living such that the individual needs help with most activity including climbing stairs, shopping, cooking and housework.

(N) Neoplastic Diseases - Malignant

Intractable pain, and/or ongoing therapy side effects, disease process or treatment which has caused a disability covered elsewhere in these standards.

(O) Medically Equivalent Impairment(s) and Combinations of Impairments

- (1) If an applicant or recipient has an anatomical, physiological or psychological impairment(s) that is not specifically included in the medical standards specified in 106 CMR 203.540(A) through (N) but is documented by medically acceptable clinical and/or diagnostic techniques and is medically equal in severity to a medical standard, the applicant or recipient shall be considered as having an impairment that meets a medical standard for purposes of 106 CMR 203.530. For purposes of determining if an impairment is medically equal in severity to a medical standard, the medical standard that is most closely analogous to the impairment shall be used.
- (2) In making the determination required by 106 CMR 203.540(O), the applicant's or recipient's description of his or her symptoms (including pain) shall be taken into consideration to the extent that:
 - (a) such symptoms are the result of a physical or mental impairment(s) as defined in 106 CMR 203.540 that is confirmed by acceptable clinical and/or laboratory diagnostic techniques; and
 - (b) such physical or mental impairment(s) could reasonably produce such symptoms.

An applicant or recipient must have a physical or mental impairment to be determined disabled. Symptoms alone are not sufficient.

- (3) If a specific medical finding required to meet a medical standard specified in 106 CMR 203.540(A) through (N) is not indicated by the competent medical authority on the medical report but a medical finding of equal clinical significance is indicated, the latter medical finding may be substituted for the required medical finding.

- (4) If an applicant or recipient has more than one impairment and none of the impairments separately are medically equivalent to a medical standard specified in 106 CMR 203.540(A) through (N), the impairments shall be considered to meet a medical standard if they in combination with each other are medically equivalent to a medical standard. For purposes of determining if an impairment is medically equal in severity to a medical standard, the medical standard that is most closely analogous to the combined impairments shall be used.

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- (1) If the agency or organization under contract/agreement with the Department to provide disability evaluation services determines that an applicant or recipient does not have an impairment or combination of impairments that either meets or is equivalent to a medical standard specified in 106 CMR 203.540, the agency or organization providing the disability evaluation services shall determine if the applicant or recipient has an anatomical, physiological, or psychological (or combination thereof) impairment(s) that:
 - (a) is documented by medically acceptable clinical and/or laboratory diagnostic techniques;
 - (b) is expected to last for at least 30 days; and
 - (c) has more than a nominal effect on the applicant's or recipient's physical and/or mental capacity to perform on a sustained basis one or more basic work activities.
- (2) If the applicant or recipient has an impairment, or combination of impairments, that meets the requirements of 106 CMR 203.545(A)(1) and the impairment(s) is a physical impairment(s), as defined in 106 CMR 203.545(B)(5), the agency or organization under contract/agreement with the Department to provide disability evaluation services shall use the vocational factors specified in 106 CMR 203.545(C) to determine if the applicant or recipient has an impairment or combination of impairments that substantially reduces or eliminates the applicant's or recipient's ability to support himself or herself for purposes of 106 CMR 203.530(A). If the impairment(s) is a mental impairment(s) as defined in 106 CMR 203.545(B)(4), the agency or organization providing the disability evaluation services shall use the vocational factors specified in 106 CMR 203.545(D) to determine if the applicant or recipient has an impairment or combination of impairments that substantially reduces or eliminates the applicant's or recipient's ability to support himself or herself for purposes of 106 CMR 203.530(A).
- (3) If an applicant or recipient does not have an impairment, or combination of impairments, that meets the requirements of 106 CMR 203.545(A)(1), the applicant or recipient shall not be considered as having an impairment or combination of impairments that substantially reduces or eliminates the applicant's or recipient's ability to support himself or herself for purposes of 106 CMR 203.530(A).
- (4) If the applicant or recipient has more than one impairment, the agency or organization under contract/agreement with the Department to provide disability evaluation services shall determine if the impairments in combination with each other satisfy the requirements of 106 CMR 203.545(A)(1).

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- (5) For purpose of 203.545(A)(1), basic work activities mean those activities that are required to do most jobs. Basic work activities include walking, standing, sitting, lifting, pushing, pulling, reaching, seeing, hearing, speaking, understanding, carrying out and remembering simple instructions; use of judgment, responding appropriately to supervision and coworkers, and dealing with changes in a routine work setting.

(B) Definitions

The following definitions shall apply to 106 CMR 203.545.

- (1) Direct entry means a person has the education and/or vocational training or past work experience to enter a job without further formal training beyond basic orientation.
- (2) Education means formal schooling, other training, and/or work experience which contributes to an ability to meet an educational requirement for a job; for example, reasoning ability, communication skills, and arithmetic ability.
- (3) Illiterate means an inability to read and write a simple message such as instructions or inventory lists in spite of an ability to sign one's name.
- (4) Mental impairment means a psychological impairment documented by medically acceptable clinical and/or laboratory diagnostic techniques.
- (5) Physical impairment means an anatomical or physiological impairment or combination of anatomical and/or physiological impairments documented by medically acceptable clinical and/or laboratory diagnostic techniques.
- (6) Previous work experience means work experience which occurred within the past five years.
- (7) Sedentary work means work activity that may involve occasional lifting, but no more than 10 pounds at a time, and carrying articles like docket files, ledgers and small tools and frequently (from 1/3 to 2/3 of the time) requires an individual to exert a negligible amount of force by lifting, carrying, pushing, pulling or otherwise moving objects.

Sedentary work involves walking and/or standing a minimum of two hours per day and sitting up to six hours per day with normal breaks.

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- (8) Semi-skilled means work requiring some skills but does not require doing more complex job duties; may require alertness and attention to watching machine processes, inspecting, testing or looking for irregularities; tending or guarding equipment, property or persons; requiring dexterity and coordination.
- (9) Skilled means work requiring judgment to determine the machine and manual operations to be performed in order to obtain the proper form, quality or quantity of material to be produced; may require laying out work, estimating quality, determining suitability and quantity of materials, making precise measurements; dealing with people, facts or figures or abstract ideas at a high level of complexity.
- (10) Transferable skills means skilled or semi-skilled work activities that were done in past work and that can be used to meet the requirements of skilled or semi-skilled work activities of other jobs or kinds of work.
- (11) Unable to communicate in English means the inability to understand English and give simple oral or written instructions in English.
- (12) Unskilled means work requiring little or no judgment to do simple duties that can be learned by rote or by demonstration on the job in a short period of time; it may or may not require considerable strength; a person can usually learn to do the job in 30 days and little specific vocational preparation and judgment are needed.

(C) Physical Impairment

- (1) An applicant or recipient who has a physical impairment as defined in 106 CMR 203.545(B)(5) that meets the requirements of 106 CMR 203.545(A)(1) shall be considered as having an impairment or combination of impairments that substantially reduces or eliminates the applicant's or recipient's ability to support himself or herself for purposes of 106 CMR 203.530(A), if:
 - (a) he or she cannot do the full range of sedentary work; or
 - (b) he or she can do the full range of sedentary work but not more and is determined disabled under 106 CMR 203.545(C)(4); or
 - (c) he or she can do more than the full range of sedentary work and is determined disabled under 106 CMR 203.545(C)(6).
- (2) If an applicant or recipient has both a physical and a mental impairment, the agency or organization under contract/agreement with the Department to provide disability evaluation services shall first determine if based on the applicant's or recipient's physical impairment alone he or she has an impairment that substantially reduces or eliminates the applicant's or recipient's ability to support himself or herself pursuant to 106 CMR 203.545(C). If the applicant or recipient is determined not to have such a physical impairment, the agency or organization providing the disability evaluation services shall proceed to make the determination required by 106 CMR 203.545(D) for mental impairments.
- (3) The determination of whether or not an applicant or recipient can do the full range of sedentary work and/or more will be made solely on the applicant's or recipient's functional capacity. In determining an applicant's or recipient's functional capacity, the agency or organization under contract/agreement with the Department to provide disability evaluation services shall consider if the statements of the competent medical authority are consistent with the diagnoses, clinical findings and the statements of the applicant or recipient, including statements as to symptoms as set forth in 106 CMR 203.540(O).
- (4) If an applicant or recipient can do the full range of sedentary work but not more, the grid specified in 106 CMR 203.545(C)(5) shall be used in determining if an applicant or recipient is or is not disabled for purposes of 106 CMR 203.530(A):
- (5) Grid

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Age	Education	Previous Work Experience	Decision
55 & over	Illiterate or unable to communicate in English	Unskilled or none	Disabled
55 & over	Less than 12 th grade - at least literate	Unskilled or none	Disabled
55 & over	Less than 12 th grade	Skilled or semiskilled - skills not transferable	Disabled
55 & over	Less than 12 th grade	Skilled or semiskilled - skills transferable	Not Disabled
55 & over	High school graduate or more - does not provide for direct entry into skilled work	Unskilled or none	Disabled
55 & over	High school graduate or more - provided for direct entry into skilled work	Unskilled or none	Not Disabled
55 & over	High school graduate or more - does not provide for direct entry into skilled work	Skilled or semiskilled - skills not transferable	Disabled
55 & over	High school graduate or more - does not provide for direct entry into skilled work	Skilled or semiskilled - skills not transferable	Not Disabled
55 & over	High school graduate or more - provides for direct entry into skilled work	Skilled or semiskilled - skills not transferable	Not Disabled

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Age	Education	Previous Work Experience	Decision
50 - 54	Illiterate or unable to communicate in English	Unskilled or none	Disabled
50 - 54	Less than 12 th grade - at least literate	Unskilled or none	Disabled
50 - 54	Less than 12 th grade	Skilled or semiskilled - skills not transferable	Disabled
50 - 54	Less than 12 th grade	Skilled or semiskilled - skills transferable	Not Disabled
50 - 54	High school graduate or more - does not provide for direct entry into skilled work	Unskilled or none	Disabled
50 - 54	High school graduate or more - provided for direct entry into skilled work	Unskilled or none	Not Disabled
50 - 54	High school graduate or more - does not provide for direct entry into skilled work	Skilled or semiskilled - skills not transferable	Disabled
50 - 54	High school graduate or more - does not provide for direct entry into skilled work	Skilled or semiskilled - skills not transferable	Not Disabled
50 - 54	High school graduate or more - provides for direct entry into skilled work	Skilled or semiskilled - skills not transferable	Not Disabled

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Age	Education	Previous Work Experience	Decision
Younger Individual Age 45-49	Illiterate or unable to communicate in English	Unskilled or none	Disabled
Age 45-49	Less than 12 th grade - at least literate	Unskilled or none	Not Disabled
Age 45-49	Less than 12 th grade	Skilled or semiskilled - skills not transferable	Not Disabled
Age 45-49	Less than 12 th grade	Skilled or semiskilled - skills transferable	Not Disabled
Age 45-49	High school graduate or more	Unskilled or none	Not Disabled
Age 45-49	High school graduate or more	Skilled or semiskilled - skills not transferable	Not Disabled
Age 45-49	High school graduate or more	Skilled or semiskilled - skills transferable	Not Disabled
Younger Individual Age 18-44	Illiterate or unable to communicate in English	Unskilled or none	Not Disabled
Age 18-44	Less than 12 th grade - at least literate	Unskilled or none	Not Disabled
Age 18-44	Less than 12 th grade	Skilled or semiskilled - skills not transferable	Not Disabled
Age 18-44	Less than 12 th grade	Skilled or semiskilled - skills transferable	Not Disabled
Age 18-44	High school graduate or more	Unskilled or none	Not Disabled
Age 18-44	High school graduate or more	Skilled or semiskilled - skills not transferable	Not Disabled
Age 18-44	High school graduate or more	Skilled or semiskilled - skills transferable	Not Disabled

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- (6) If an applicant or recipient can do more than the full range of sedentary work, the vocational factors as set forth in the grid at 106 CMR 203.545(C)(5) shall be applied to the applicant or recipient. If under the grid, the applicant or recipient is determined to be "not disabled", the applicant or recipient shall not be considered disabled for purposes of 106 CMR 203.530(A).

In all other cases, the agency or organization under contract/agreement with the Department to provide disability evaluation services shall do a further review, based on the applicant's or recipient's functional capacity and the factors set forth in this section, to determine if there is a significant amount of full-time work in the northeast regional economy that the applicant or recipient could do. If a significant amount of such full-time work does not exist, the applicant or recipient shall be considered disabled for purposes of 106 CMR 203.530(A). The vocational factors that are to be considered in this further review are as follows:

(a) Physical Activity

1. the kinds and amount of physical activity the applicant or recipient can perform with his or her impairment(s) on a regular and sustained basis; and
2. whether such physical activity is consistent with the applicant's or recipient's physical impairment(s); and
3. the kinds and amount of non-exertional limitations on the applicant's or recipient's physical activity, including, but not limited to, vision, hearing, speaking, posture, reaching and feeling; and
4. the possible effects, if any, the applicant's or recipient's medication(s) may have on his or her work capacity.

(b) Age

The extent to which the applicant's or recipient's age may affect his or her ability to adjust to changes in work routine or work environment.

(c) Education/vocational skills

1. the years of formal education, if any, that the applicant or recipient has completed; and
2. training and past work experience of the applicant or recipient; and
3. whether the applicant or recipient has transferable skills; and
4. if the applicant or recipient is literate and able to communicate in English; and
5. the period of time that has lapsed between the applicant's or recipient's education, training or past work experience and the beginning of his or her impairment(s).

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(d) Work in the Regional Economy

1. For purposes of determining the amount of full-time work that exists in the northeast regional economy of the United States within the range of work ("sedentary," "light," "medium," "heavy" and "very heavy") as those terms are defined in the Dictionary of Occupational Titles that the applicant or recipient can perform, the agency or organization under contract/agreement with the Department to provide disability evaluation services may rely on the Dictionary of Occupational Titles, Occupational Outlook Handbook and Labor Market Surveys.
2. A significant amount of such work exists in the north-east regional economy if there is a significant number of full-time jobs in one or more occupations that the applicant or recipient could do with his or her functional capacity and vocational qualifications. It is not necessary (a) for such work to exist in the immediate area where the applicant or recipient lives; (b) for job vacancies to exist; or (c) for the applicant or recipient to be hired if he or she applied for such work.

(D) Mental Impairment

For an applicant or recipient who has a mental impairment as defined in 106 CMR 203.545(B)(4), including the combination of mental and physical impairments, the agency or organization under contract/agreement with the Department to provide disability evaluation services shall consider in combination with the applicant's or recipient's functional capacity the factors specified in 106 CMR 203.545(C)(6) and the following factors in determining whether there is a significant amount of full-time work in the northeast regional economy that the applicant or recipient could do. If a significant amount of such full-time work does not exist, the applicant or recipient shall be considered disabled for purposes of 106 CMR 203.530(A). The factors are:

- (1) whether there is any impairment to memory, concentration, pace and persistence, social functioning, independence, and anhedonia, and
- (2) whether the applicant's or recipient's medication may have side effects that may limit those abilities specified in 106 CMR 203.545(D)(1); and
- (3) the applicant's or recipient's ability to:
 - (a) understand, remember and carry out simple instructions; and
 - (b) make simple work-related decisions; and
 - (c) accept supervision and to ask questions or request assistance; and
 - (d) complete tasks in a timely manner; and
 - (e) adjust to changes in work routine or work environment; and
- (4) the applicant's or recipient's past work experience.

203.550: Unemployment or Underemployment

A dependent child is considered deprived of care or support if one of his or her natural or adoptive parents with whom the dependent child lives is unemployed or underemployed. The parent shall be considered to be underemployed when employed though the assistance unit continues to meet the financial eligibility requirements of the TAFDC program.

Verification

Verification of unemployment is mandatory at application, eligibility review, or when necessary to establish the deprivation factor. The applicant's or recipient's declaration containing the necessary information about employment status shall be sufficient verification of unemployment.

Verification of underemployment is mandatory at application, eligibility review, when necessary to establish the deprivation factor, or when subject to the requirements of monthly reporting. Verification of underemployment indicating gross wages and the number of hours employed is mandatory and shall be by pay stubs or by a written statement from the employer or former employer.

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203.560: Dependent Child

The primary categorical requirement is the presence of a dependent child. A dependent child is a child who is:

- (A) deprived of the support or care of one or both of his or her natural or adoptive parents through death, continued absence, incapacity, or unemployment; and
- (B) under the age of 18; or under the age of 19 if the child is a full-time student in grade 12 or below, in a school not beyond the secondary level or a vocational or technical training program of the equivalent level designed to lead to gainful employment, and the child is expected to graduate or complete the course of study or training before his or her 19th birthday.

203.565: Dependent Child: Pregnancy(A) Requirements

Assistance may be authorized for an otherwise eligible pregnant woman:

- (1) when it has been verified that the child is expected to be born within 120 days of the date of application; and
- (2) if such child had been born and was living with her, the child would meet the categorical and financial requirements of TAFDC.

See 106 CMR 204.235(C) for the determination of financial eligibility for the pregnant woman.

(B) Verification

Pregnancy and the date the child is expected to be born must be verified by a statement from a competent medical authority.

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Except as specified in 106 CMR 203.900, school attendance is not required for a child under 18 as a condition of TAFDC eligibility. A child between the ages of 16 and 18 who is not attending school, however, must be participating in the ESP program.

(B) Verification

- (1) Age must be verified. Age is verified by a birth certificate, or a baptismal certificate. If the applicant or recipient does not have and cannot obtain a birth or baptismal certificate, age is verified by one of the following:
 - a. Family Bible or genealogical records;
 - b. Passport;
 - c. Hospital birth record or Notification of Birth Form (NOB-1) signed by appropriate hospital official;
 - d. United States Census records;
 - e. Social Security (RSDI) benefit records;
 - f. Immigration and Naturalization records;
 - g. Court records (e.g., adoption, separate support, adjudication of paternity); or
 - h. An affidavit of a third person, if the applicant or recipient has demonstrated that he or she has tried to obtain an appropriate document. See 106 CMR 702.340(B): Affidavits.
- (2) Any of the following, provided they are dated at least six months prior to the date of application and provided they contain evidence of the age of the child, are also acceptable verification:
 - a. School record;
 - b. Insurance policies;
 - c. Employment records;
 - d. Newspaper records and local histories;
 - e. Indian agency records;
 - f. Child Welfare service records;
 - g. Voluntary social service records;
 - h. Church records;
 - i. Head Start Program records;
 - j. day care center records; or
 - k. other governmental records.

203.575: Dependent Child: Age 18

(A) Requirements

In order to remain eligible as a dependent child, a child who has reached his or her 18th birthday shall:

- (1) Be a full-time student in grade 12 or below in a school not beyond the secondary level or in a full-time vocational or technical training program of the equivalent level designed to lead to gainful employment; and
- (2) Be reasonably expected to graduate or complete the course of studies or training before reaching his or her 19th birthday.

Eligibility shall continue through the end of the month in which the student graduates.

(B) Student Status

(1) Requirements

A child 18 years of age is a student if he or she is attending a full-time course of training or study.

(2) Definition of Full-Time

Full-time school attendance is defined as 30 hours per week or the full-time schedule determined by the school.

(3) Verification

- (a) Verification of full-time student status is mandatory and is verified by one of the following:

1. a letter from a school authority;

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2. a notice of grades for the current semester, provided the notice is dated within 45 days of the application date or eligibility review interview date; or
 3. any other document from the school and/or instructor.
- (b) During the summer months, if the documentary evidence listed in (a) above is unavailable, full-time student status is verified by one of the following:
1. a report card from the last semester of the previous school year; or
 2. a course schedule or other notice of attendance for the next school year.

If the above-listed documents are unavailable, and if the worker is unable to obtain documentation through collateral contact, the self-declaration of the student shall be sufficient evidence.

(C) Gainful Employment(1) Requirements

A course of study is considered to prepare a student for gainful employment if the school, institution or program is accredited or approved and the course leads to a certificate or diploma.

- (a) If in a primary or secondary school, the student must be in a program of supervised educational or vocational training approved by the authorities of the school district or by the Massachusetts Department of Education. The program may be part of the regular school program or one specially arranged for the individual child's educational or vocational needs.
- (b) If in a vocational or technical training program, the program must be approved by the Massachusetts Department of Education.

(2) Verification

If verification is necessary, the accreditation or approval of the school, institution or program is verified by school or institution documents or other appropriate material.

(D) Date of Expected Graduation

The requirement that a dependent child who is 18 years of age can reasonably be expected to graduate or finish the course of study or training before his or her 19th birthday shall be verified by a statement from the appropriate school authority giving the child's expected date of graduation or completion of the course.

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To be eligible, the dependent child must live with a relative responsible for his or her day-to-day care in a place of residence maintained as a home.

Assistance may not be denied either because of the conditions of the home or because the home is considered unsuitable.

203.585: Relationship(A) Requirements

- (1) The grantee must be related to the dependent child in one of the following ways:
 - (a) A blood relative, including a mother, father, sister, brother, niece, nephew, aunt, uncle, first cousin, first cousin once removed (second or third cousins are not included under this definition), or any of these relatives of the preceding generation as denoted by prefixes of grand, great, great-great, or great-great-great-grandparents; blood relatives include those of half-blood;
 - (b) A stepfather, stepmother, stepbrother, or stepsister;
 - (c) A parent by legal adoption or any of the adopting parent's blood relatives as defined above, natural children, or adopted children; or
 - (d) A spouse of any person named above, even if the marriage has been terminated by death or divorce.
- (2) To determine whether or not the grantee or the spouse of the grantee may be included in the assistance unit, see 106 CMR 204.300 through 204.325.

(B) Verification

Relationship must be verified. Relationship is verified by:

- (1) Birth certificate showing the name(s) of the parent(s); or
- (2) For school-aged children, school records showing the address of the child and the name and relationship of the relative responsible for the child.

If neither of the above is available, or for children for whom school records are not available, relationship is verified in the same manner as age. See 106 CMR 203.570(B).

Marital relationship is verified by a license or certificate of marriage.

203.590: Establishment of Paternity**(A) Requirements**

Paternity is established for purposes of TAFDC eligibility when the alleged father of a child:

- (1) Is legally married to the mother (or was legally married to her at the time of the conception or birth of the child);
- (2) Has entered into a common-law marriage with the mother in a state or county in which the common-law marriage is valid. Common-law marriage cannot be legally entered into in Massachusetts;
- (3) Has been found to be the father in adjudication by a court;
- (4) Has completed a legally binding agreement acknowledging paternity and his obligation to support the child and the agreement has been signed by both the father and the mother; or
- (5) Has completed a voluntary acknowledgment of paternity with the Child Support Enforcement Unit (CSEU).

(B) Verification

If verification is necessary, the establishment of paternity is verified by:

- (1) The child's birth certificate showing the name of the father;
- (2) Marriage or court records; or
- (3) A copy of the acknowledgment of paternity from the Child Support Enforcement Unit.

203.595: Living Arrangement**(A) Requirements**

A dependent child must be living with his or her relative (as specified in 106 CMR 203.585) in a place of residence maintained by such relative as a home. This requirement is met if:

- (1) The child is physically present in the home and the grantee exercises responsibility for the day-to-day care and control of the child, even if the child is under the jurisdiction of a court (for example, receiving probation services or protective supervision) or if legal custody of the child is held by a public or private agency; or
- (2) The child spends time with a second parent as a result of a shared custody agreement. Regardless of a shared custody arrangement, only one of the child's natural or adoptive parents may be the eligible grantee for that child at any one time; or
- (3) The child is temporarily absent from the home except as specified in 106 CMR 203.595(A)(5); and
 - (a) the temporary absence of the child is not expected to last more than 120 consecutive days; or
 - (b) the temporary absence meets a good cause exception specified in 106 CMR 203.595(A)(6).

Absences that are considered temporary in nature for a child include attendance at educational institutions or specialized schools, hospitalization, employment, visits, a voluntary placement with the Department of Social Services and similar situations of a temporary nature. During such temporary absences, only one relative may be the eligible grantee for that child at any one time.

- (4) The grantee is temporarily absent from the home; and
 - (a) the temporary absence of the grantee is not expected to last more than 120 consecutive days; or
 - (b) the temporary absence meets a good cause exception specified in 106 CMR 203.595(A)(6).

Absences that are considered temporary in nature for a grantee include hospitalization, employment, visits and similar situations of a temporary nature. During such temporary absences, only one relative may be the eligible grantee for that child at any one time.

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- (5) The living arrangement requirement is not met if the temporary absence from the home is because:
- (a) the child has been removed from the household pursuant to a court order after a care and protection hearing; or
 - (b) the only child(ren) in the grantee's assistance unit has been temporarily removed by the Department of Social Services in accordance with Department of Social Services procedures.
- (6) Good cause for an absence to exceed 120 consecutive days shall exist when the grantee has regular contact with the child and continues to exercise care and control of the child; and
- (a) the child or grantee is hospitalized;
 - (b) the child is attending a residential school from which the child returns to the home for visits or such reasons as vacations or holidays; or
 - (c) there is a family crisis situation which is temporary in nature.

The Commissioner or his or her designee must authorize a temporary absence based on a family crisis.

- (7) The provisions concerning temporary absence of a child shall apply to a child who leaves his or her home on or after the effective date of these regulations. For a child who was temporarily absent from his or her home before the effective date of these regulations, the first day of the 120-consecutive-day period shall commence on the effective date of these regulations.
- (8) Failure by the grantee to notify the Department within five calendar days of the date he or she learns that the temporary absence of the child will exceed 120 consecutive days shall result in the ineligibility of the grantee.

(B) Verification

- (1) If verification is necessary, living arrangement is verified by school records showing the address of the child and the name of the relative who is responsible for the child. If this information is not available, living arrangement is verified by one of the following:
 - (a) Hospital or clinical records;
 - (b) Public Housing Authority records;
 - (c) Court support orders;
 - (d) Signed physician's statement;
 - (e) Juvenile court records;
 - (f) Child Welfare records;
 - (g) Voluntary social service agency records;
 - (h) Head Start Program records;
 - (i) Day care center records; or
 - (j) Worker observation during a home visit.
- (2) The grantee must provide written verification of the temporary absence from the home as determined by the Department. The verification must specify:
 - (a) the temporary nature of the absence; and
 - (b) the start date and expected end date of the temporary absence; and
 - (c) if the grantee is claiming good cause for the temporary absence to exceed the 120 consecutive days, the grantee must also provide documentation from the appropriate agency or organization that verifies that the grantee has regular contact with the child and continues to exercise care and control of the child.

203.600: Teen Parent Eligibility**Requirements**

The Department shall only provide benefits to a teen parent and his or her dependent child when the teen parent:

- (1) has graduated from high school or received a GED; or is enrolled and attending full time a school not beyond high school; or is attending a full-time GED program and participating in an approved training or employment-related activity for a total of 20 hours per week, or if living in a teen structured living program is meeting the requirements specified in 106 CMR 203.630(A)(3), in accordance with 106 CMR 203.610; and
- (2) resides in one of the following living arrangements:
 - (a) with one of the following responsible adults:
 1. his or her parent(s);
 2. an adult age 20 or older who meets the relationship requirement of 106 CMR 203.585 for the teen parent;
 3. an adult age 20 or older who meets the relationship requirement of 106 CMR 203.585 for the dependent child, except that in the case of an unmarried teen parent, the other parent of the dependent child shall not meet the requirements of this section;
 4. an approved foster parent; or
 5. a legal guardian who is not the other parent of the dependent child; or
 - (b) in a teen structured living program in accordance with 106 CMR 203.630; or
 - (c) on his or her own when the Department determines he or she has achieved necessary educational and vocational goals and acquired sufficient independent living skills and parenting skills in accordance with 106 CMR 203.640.

The provisions of this section apply whether the teen parent is: a grantee, a dependent child, or excluded from the assistance unit in accordance with 106 CMR 204.305(E).

203.610: Teen Parent School Attendance

(A) Requirements

- (1) A teen parent must meet one of the following school attendance requirements:
 - (a) be a high school graduate; or
 - (b) be a graduate of a GED program; or
 - (c) be a full-time student not beyond high school; or
 - (d) be a full-time student in a GED program and participate in an approved training or employment-related activity for a total of 20 hours per week; or, if living in a teen structured living program, meeting the requirements specified in 106 CMR 203.630(A)(3).
- (2) A teen parent described in 106 CMR 203.610 (A)(1)(c) or (d) must meet the component requirements of the Employment Services Program as specified in 106 CMR 207.110 and 207.140.
- (3) A teen parent unable to find suitable alternative child care arrangements shall be provided with child care by the Department, if available. If child care is not available, the teen parent is exempt from 106 CMR 203.610(A)(1) above.
- (4) Failure by a teen parent to comply with the attendance requirements will result in a sanction for the teen parent and his or her dependent child unless good cause exists in accordance with 106 CMR 701.380.
 - (a) For the first instance of noncompliance the assistance grant will be reduced by an amount equal to the teen parent's portion of the grant.
 - (b) If the noncompliance continues beyond 30 days and for subsequent instances of noncompliance the teen parent and his or her dependent child will be ineligible.
 1. If the teen parent and his or her dependent child(ren) are sanctioned, the child(ren)'s other parent, living with the teen parent and child(ren), may constitute an assistance unit of one if otherwise eligible.
 2. If a teen parent and his or her dependent child(ren) are sanctioned, the grantee, living with the teen parent and his or her dependent child(ren), may constitute an assistance unit of one if otherwise eligible.

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- (5) A teen parent who has been determined ineligible in accordance with 106 CMR 203.610(A)(4) may have his or her TAFDC benefits restored as specified in 106 CMR 207.205 provided he or she is otherwise eligible.
- (6) A teen parent is not subject to the requirements of 106 CMR 203.610 for three months following the birth of her child.

(B) Verifications

The following verifications are mandatory.

- (1) Verification of school attendance and frequency shall be a method specified by the Department.
- (2) Verification of high school graduation shall be a copy of a high school graduation diploma or a written statement from the appropriate high school authority giving the date of graduation.
- (3) Verification of graduation from a GED program shall be a copy of the GED certificate or a written statement on letterhead from the educational provider stating that the GED requirements have been met and when the certificate will be issued.
- (4) Verification of full-time participation in a GED program shall be a written statement from the educational provider stating that the program will lead to a high school diploma or the equivalency and verifying the teen parent's full-time attendance.
- (5) Verification of participation in an approved training or employment-related activity shall be by a method specified by the Department.

203.620: Teen Parent Living with Responsible Adult

(A) Requirements

- (1) Except as stated in 106 CMR 203.630 and 203.640, a teen parent and his or her dependent child must reside with one of the following:
 - (a) his or her parent(s);
 - (b) an adult age 20 or older who meets the relationship requirement of 106 CMR 203.585 for the teen parent;
 - (c) an adult age 20 or older who meets the relationship requirement of 106 CMR 203.585 for the dependent child, except that in the case of an unmarried teen parent, the other parent of the dependent child shall not meet the requirements of this section;
 - (d) an approved foster parent; or
 - (e) a legal guardian who is not the other parent of the dependent child.
- (2) A teen parent under the age of 18:
 - (a) must be included in the assistance unit of his or her parent(s) when the parent(s) is receiving TAFDC for siblings and/or half siblings of the teen parent; and
 - (b) will have his or her financial eligibility determined in accordance with 106 CMR 204.236.

(B) Verifications

The following verifications are mandatory.

- (1) Verification of relationship shall be in accordance with 106 CMR 203.585.
- (2) Verification of the living arrangement with an adult relative age 20 or older or a legal guardian shall be a written statement from the adult relative or legal guardian.
- (3) Verification of legal guardianship shall be a copy of the appropriate legal document that verifies the arrangement.
- (4) Verification of an approved foster care placement shall be a written statement from the appropriate social service agency.

203.630: Teen Parent Structured Living Program

(A) Requirements

- (1) A teen parent must reside in a teen structured living program, as specified by the Department, when the following conditions exist:
 - (a) the teen parent asserts that he or she cannot live in the home of his or her parent(s) because abuse, neglect, addiction to substances, or some other extraordinary circumstance is present and this has been confirmed by the Department and the Department of Social Services (DSS) or its agent(s); and
 - (b) there is no adult relative age 20 or older with whom he or she can live as required in 106 CMR 203.620;
 - (c) there is no legal guardian with whom he or she can live as required in 106 CMR 203.620; and
 - (d) the teen parent has failed to achieve sufficient independent living skills and parenting skills necessary to live on his or her own as required in 106 CMR 203.640 and there is an available teen structured living program.
- (2) A teen parent placed in a teen structured living program must pay a portion of his or her assistance grant for program fees. The amount is determined by the teen structured living program.
- (3) The minimum obligations of a teen structured living program are as follows:
 - (a) require a teen parent to enroll and make acceptable progress in a school not beyond high school or a GED program unless he or she has a high school diploma or a GED certificate;
 - (b) require a teen parent to participate in basic parenting skills, basic life skills classes, and pregnancy prevention classes;
 - (c) provide necessary rules and regulations to promote stability; and
 - (d) provide regular counseling sessions to enhance the teen parent's self-esteem.

(B) Verification

Verification of the presence of abuse, neglect, addiction to substances, or other extraordinary circumstance shall be a written statement from DSS.

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203.640: Teen Parent Living Independently(A) Requirements

The Department may determine, in accordance with the criteria listed below, that a teen parent may reside on his or her own if he or she is considered to have achieved necessary educational and vocational goals and acquired sufficient independent living skills and parenting skills. A teen parent who meets the following criteria may be determined appropriate to reside independently:

- (1) married and living with his or her spouse; or
- (2) unmarried, or married and living apart from his or her spouse; and
 - (a) if under age 18, the Department of Social Services (DSS) has confirmed that there is no known reason the teen parent cannot live independently, that the teen parent is a graduate of a DSS independent living program, and that the teen parent is:
 1. a graduate of high school; or
 2. a graduate of a GED program; or
 3. attending school full-time not beyond high school; or
 4. attending a full-time GED program and participating in an approved training or employment-related activity for a total of 20 hours per week.
or
 - (b) if age 18 or 19,
 1. is a graduate of high school;
 2. is a graduate of a GED program;
 3. is attending school full-time not beyond high school; or
 4. is attending a full-time GED program and participating in an approved training or employment-related activity for a total of 20 hours per week.
or

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- (c) if age 17, DSS or a DSS vendor has completed an assessment of the home of the teen's parent(s) and of the teen parent's current living situation and states that the teen parent cannot return to the home of his or her parent(s), and the current living environment poses no apparent health or safety risks to the teen parent or his or her dependent child(ren).

DSS shall make this determination based on the following requirements:

1. the principal of the school or the executive director of the GED program states that the teen parent is making satisfactory progress toward completion of the requirements for a diploma or certificate, or is a high school graduate or a graduate of a GED program;
2. if the teen parent is the subject of an open DSS case, the DSS case worker states that the teen parent should be permitted to live on his or her own rather than in a structured living program;
3. the teen parent has an established, stable, quality child care arrangement; and
4. the teen parent has an established relationship with a teen parenting program and the program supports that the teen parent be permitted to continue living on his or her own.

The Commissioner of the Department of Transitional Assistance or his or her designee will review the recommendation of the Department of Social Services and approve or deny the independent living arrangement of the teen parent.

(B) Verifications

The following verifications are mandatory.

- (1) Verification of marriage shall be a license or certificate of marriage.
- (2) Verification that there is no known reason the teen parent under 18 cannot live independently and graduation from a DSS independent living program shall be a written statement from DSS.
- (3) Verification of school attendance and graduation from high school shall be in accordance with 106 CMR 203.610.
- (4) Verification of graduation from a GED program shall be a copy of the certificate attesting to completion of the GED program.
- (5) Verification of participation in an approved training or employment-related activity shall be by a method determined by the Department.

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- (6) Verification of the requirements of 106 CMR 203.640(A)(2)(c) is the responsibility of DSS. DSS must submit, to the Commissioner of DTA or his or her designee, written statements from:
- (a) the principal of the school or the executive director of the GED program that state that the teen parent is making satisfactory progress toward completion of the requirements for a diploma or certificate, or that the teen parent is a high school graduate or a graduate of a GED program;
 - (b) the DSS case worker, if the teen parent is an open DSS case, that the teen parent should be permitted to live on his or her own rather than in a structured living program;
 - (c) DSS that the teen parent has an established, stable, quality child care arrangement; and
 - (d) the teen parenting program that the teen parent has an established relationship with the teen parenting program and that the teen parenting program supports that the teen parent be permitted to continue living on his or her own.

203.650: Residence

(A) Requirements

- (1) To be eligible for TAFDC, an applicant or recipient must meet one of the two following residency requirements:
 - (a) the child and the relative are living in the Commonwealth, with the intention of making their home in the Commonwealth, but are not required to maintain a permanent residence or fixed address; or
 - (b) the child and relative are living in the Commonwealth temporarily, are not receiving assistance from another state, and the reason for entering the Commonwealth was to fulfill a job commitment or seek employment.
- (2) An applicant or recipient does not meet the residency requirements when he or she is entering and residing in the Commonwealth for a temporary purpose other than fulfilling a job commitment for temporary work or seeking such work, and he or she plans to leave the Commonwealth upon completion of this purpose; or
- (3) There is a rebuttable presumption that an applicant or recipient does not meet the residency requirements when he or she is entering and residing in the Commonwealth for the purpose of school attendance by a filing unit member.
- (4) Under 106 CMR 203.650(A)(1)(a), the primary determination of residency is intent. Except as specified in 106 CMR 203.650(A)(2) or (3), the applicant or recipient meets the residency requirements if he or she has no present intent to leave the Commonwealth, although not necessarily intending to remain in the Commonwealth permanently.
- (5) Under 106 CMR 203.650(A)(1)(b), the primary determination of residency is the purpose for which the relative entered the Commonwealth. Except as specified in 106 CMR 203.650(A)(2), the applicant or recipient meets the residency requirements if he or she entered the Commonwealth with a specific job commitment or to seek work with no immediate intent to leave the Commonwealth at the end of the job commitment.

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(B) Verification

If verification is necessary, the method of verifying residence depends on the residency requirement the applicant or recipient claims to have met.

- (1) If the applicant or recipient claims intent to make his or her home in the Commonwealth, residence is verified by one or more of the following:
 - (a) a signed statement from a landlord to the applicant or recipient specifying the rental arrangement;
 - (b) a deed or other evidence of ownership of the property used as the home;
 - (c) postal service records;
 - (d) church or religious institution records;
 - (e) utility company records;
 - (f) voter registration records;
 - (g) motor vehicle license or registration; or
 - (h) employment records.
- (2) If the applicant or recipient is homeless and if documentary evidence is not available, residence is verified by one of the following:
 - (a) a collateral contact with a person who can verify that the applicant or recipient lives in the area covered by the office in which he or she applied; or
 - (b) a written statement signed by the household or by a person known to the household stating the household lives in the area covered by the office in which he or she applied; or
 - (c) a home visit.
- (3) If the applicant or recipient claims that he or she is living in the Commonwealth, is not receiving assistance in another state and entered the Commonwealth with a job commitment or is seeking employment in the Commonwealth, residence is verified by:
 - (a) a signed statement from the employer making the job commitment; or
 - (b) a current employment registration card.

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- (4) Verification that a filing unit is no longer receiving public assistance in another state and the date of termination of such public assistance must be provided by the filing unit when the filing unit:
- (a) has moved into the Commonwealth within six months prior to the date of application; and
 - (b) states that one or more of its members was receiving public assistance in another state.

If one or more members of the filing unit was receiving public assistance in another state, the earliest eligibility date in the Commonwealth is specified in 106 CMR 702.150 Date Assistance Begins.

203.655: Disqualifying Absences

An applicant or recipient is not eligible while:

- (A) a patient in a mental institution;
- (B) an inmate of a penal or other public institution;
- (C) absent from the United States and such absence does not qualify as a temporary absence as specified in 106 CMR 203.660; or
- (D) permanently residing outside the Commonwealth.

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203.660: Temporary Absence(A) Requirements

Temporary absences from the Commonwealth, with subsequent returns to the Commonwealth, or intent to return when the purposes of the absence may have been accomplished, do not interrupt continuity of residence. Temporary absences include those for such reasons as health, business, school, or family commitments. Temporary absences may not exceed 60 calendar days.

A temporary absence which exceeds 60 calendar days shall create a rebuttal presumption that Massachusetts residency has been abandoned and that eligibility for assistance has ceased. The recipient may rebut this presumption by meeting one of the following requirements:

- (1) Submission of verification prior to the start of the absence, or during the first 60 calendar days of the absence, that it will exceed 60 calendar days. Acceptable verification includes medical documentation, a short-term business contract or school documents. Verification of intent to retain residency must also be submitted. Evidence to substantiate intent to retain residency includes any of the documents listed in 106 CMR 706.400(C)(1)(b).
- (2) Appearance at a Fair Hearing and submission of evidence demonstrating a need for absence in excess of 60 calendar days.

If a recipient is unable to appear at the Fair Hearing for medical reasons, he or she shall submit a signed and dated statement from a competent Medical Authority verifying that the recipient is unable, for medical reasons, to travel to Massachusetts. In this situation the recipient must also submit written testimony verifying the need for the absence to exceed 60 calendar days and verification of the intent to retain residency in Massachusetts.

(B) Absence in Excess of 60 Days

If a recipient is absent for more than 60 calendar days, and continues to receive assistance, the worker shall notify the appropriate state agency in the state where the recipient is temporarily residing. Such notice shall include: the recipient's name, Social Security Number, Massachusetts' address, temporary address and anticipated length of the temporary absence.

(C) Verification

The temporary nature of an absence of less than 60 calendar days must be verified (see 106 CMR 702.300: Verification). Evidence of the temporary nature of an absence includes medical documentation, a short-term business contract or school documents. Evidence to substantiate intent to retain residency includes any of the documents listed in 106 CMR 706.400(C)(1)(b).

203.665: Citizens, Noncitizens, and Canadian-born Indians

To be eligible for assistance, the applicant or recipient must be:

- (A) A citizen of the United States, defined as an individual born in one of the United States, District of Columbia, Commonwealth of Puerto Rico, Virgin Islands, or Guam; or meets the citizen requirements as specified in 106 CMR 203.670: Citizens;
- (B) A noncitizen who meets one of the requirements of 106 CMR 203.675; or
- (C) An American Indian born in Canada.

A statement certifying under penalty of perjury to the truth of the information contained in the application of the citizenship status of each member in the assistance unit must be completed. Failure to comply with these requirements shall result in an individual's ineligibility as specified in 106 CMR 204.315.

When a relative is ineligible for assistance because of his or her noncitizen status, he or she must be excluded from the assistance unit but may be an ineligible grantee for those children who do meet the requirements. If such relative is an ineligible grantee who has a legal obligation to support his or her child(ren), he or she is subject to other TAFDC provisions, including but not limited to, the Family Cap specified in 106 CMR 203.300 and community service as specified in 106 CMR 203.400, if applicable.

203.670: Citizens

- (A) Person born in the United States, District of Columbia, Commonwealth of Puerto Rico, Virgin Islands or Guam

Citizenship must be verified when the information on the application is questionable. If verification is necessary, citizenship is verified by the sources listed in 106 CMR 203.570: Dependent Child: Under Age 18 that indicate place of birth or citizenship.

- (B) Person born outside the United States, District of Columbia, Commonwealth of Puerto Rico, Virgin Islands or Guam

Citizenship is verified by one of the following:

- (1) U.S. passport;
- (2) Naturalization certificate;
- (3) Military service papers that indicate citizenship;

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- (4) U.S. Citizen Identity Card (Form I-179);
- (5) U.S. Citizen Resident's Card (Form I-197);
- (6) Proof that at least one natural or adoptive parent(s) was:
 - (a) a U.S. citizen at the time of the person's birth, and
 - (b) that the parent had resided in the U.S. before the birth of this person;
- (7) Proof that:
 - (a) both parents became naturalized citizens before this person either turned age 18 or married while under age 18; and
 - (b) at the time the second parent or surviving parent was naturalized, this person:
 - 1. was residing in the U.S. with lawful admission for permanent resident status or
 - 2. began to reside permanently in the U.S. while under the age of 18;
- (8) Proof that at least one parent is a U.S. citizen by birth or naturalization and the foreign-born child, including an adopted child:
 - (a) is under 18 years of age;
 - (b) is currently residing permanently in the U. S. in the legal and physical custody of the United States citizen parent; and
 - (c) is a lawful permanent resident; or
- (9) Proof that, at the time of this person's birth, one parent was a U.S. citizen residing in the U.S. for more than five years, two years of which were after the parent was 14 years old.

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203.675: Noncitizens

An individual included as a member of the filing unit as a noncitizen must verify that he or she is present in the United States under one of the eligible noncitizen statuses as described in 106 CMR 203.675(A). The status of a noncitizen must be verified at application, at eligibility reviews or whenever the status of the noncitizen changes or is questionable. Verification of an eligible noncitizen status must be presented prior to the determination of TAFDC eligibility. A noncitizen unwilling or unable to provide acceptable verification of an eligible noncitizen status is ineligible. TAFDC eligibility will be determined in accordance with 106 CMR 204.330 for the remaining members of the assistance unit who verify an eligible noncitizen status. The Commissioner or designee is required to report to the Immigration and Naturalization Service information about noncitizens known to be in the United States unlawfully.

(A) Eligible Noncitizen Status

A noncitizen's eligibility for TAFDC depends on the section of the Immigration and Nationality Act (INA) under which the noncitizen is present in the United States, the date that status was granted, and the meeting of additional criteria. Eligible noncitizen statuses for TAFDC are:

(1) Veterans and Active Duty Personnel

A noncitizen lawfully residing in the U.S. is an eligible noncitizen when he or she is:

- (a) a veteran of the U.S. Armed Forces with honorable discharge not related to his or her noncitizen status;
- (b) a person on active duty in the U.S. Armed Forces, other than active duty for training, who fulfills the minimum active-duty service requirement of 24 months or the period for which the person was called to active duty;
- (c) a spouse of the veteran or person who died during active duty if:
 - 1. the spouse has not remarried; and
 - 2. the couple was married for at least one year or for any period if a child was born of the marriage or was born before the marriage;
- (d) a spouse or unmarried dependent child of the veteran or person on active duty described in (a) or (b) above. For purposes of this section, an unmarried dependent child is a child who is or could be claimed as a deduction on the veteran's tax return and who meets the definition of a dependent child as specified in 106 CMR 203.560(B);

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- (e) a Hmong or other Highland Lao veteran who fought on behalf of the Armed Forces of the U.S. during the Vietnam conflict and has been lawfully admitted to the U.S. for permanent residence; or
- (f) a member of the organized military forces of the Government of the Philippines while such forces were in the service of the Armed Forces of the United States pursuant to the military order dated July 26, 1941, including organized guerrilla forces under commanders organized by the U.S. Army for service prior to 7/1/46.

(2) Legal Permanent Resident

A noncitizen present in the U.S. as a legal permanent resident is an eligible noncitizen as specified below.

- (a) The legal permanent resident status was granted before 8/22/96;
- (b) The legal permanent resident status is granted on or after 8/22/96 and five consecutive years have elapsed from the date the legal permanent resident status was granted;
- (c) The legal permanent resident status, regardless of the date the legal permanent status was granted, was a status adjustment by INS and prior to the status adjustment the noncitizen was (i) a refugee under section 207 of the INA, (ii) an asylee under section 208 of the INA, (iii) a noncitizen whose deportation was being withheld under section 243(h) or 241(b)(3) of the INA, (iv) a Cuban/Haitian entrant under section 501(e) of the Refugee Education Assistance Act of 1980 or under section 212(d)(5) of the INA, or (v) an Amerasian immigrant under section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988; or
- (d) The noncitizen, who entered the U.S. before 8/22/96, whose legal permanent resident status was granted on or after 8/22/96, and who has been continuously present in the U.S. from the latest date of entry prior to 8/22/96 until the legal permanent resident status was granted. Continuous presence is interrupted by a single absence from the U.S. of more than 30 days or a total of aggregated absences of more than 90 days.

(3) Refugee

A noncitizen present in the U.S. as a refugee under section 207 of the INA is an eligible noncitizen.

(4) Asylee

A noncitizen present in the U.S. as an asylee under section 208 of the INA is an eligible noncitizen.

(5) Withholding of Deportation Noncitizen

A noncitizen whose deportation is being withheld under section 243(h) or 241(b)(3) of the INA is an eligible noncitizen.

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A noncitizen present in the U.S. as a parolee under section 212(d)(5) of the INA is an eligible noncitizen as specified below.

- (a) The parolee status was granted before 8/22/96 and the noncitizen is being paroled for a period of at least one year; or
- (b) The parolee status is granted on or after 8/22/96, the noncitizen is eligible after five consecutive years have elapsed from the date the parolee status was granted; or
- (c) The noncitizen who entered the U.S. before 8/22/96, whose parolee status was granted on or after 8/22/96, and who has been continuously present in the U.S. from the latest date of entry prior to 8/22/96 until the parolee status was granted is an eligible noncitizen. Continuous presence is interrupted by a single absence from the U.S. of more than 30 days or a total of aggregated absences of more than 90 days.

(7) Conditional Entrant

A noncitizen present in the U.S. as a conditional entrant under section 203(a)(7) of the INA as in effect prior to 4/1/80 is an eligible noncitizen as specified below.

- (a) The conditional entrant status was granted before 8/22/96; or
- (b) The conditional entrant status is granted on or after 8/22/96, the noncitizen is eligible after five consecutive years have elapsed from the date the conditional entrant status was granted; or
- (c) The noncitizen who entered the U.S. before 8/22/96, whose conditional entrant status was granted on or after 8/22/96, and who has been continuously present in the U.S. from the latest date of entry prior to 8/22/96 until the conditional entrant status was granted. Continuous presence is interrupted by a single absence from the U.S. of more than 30 days or a total of aggregated absences of more than 90 days.

(8) Battered Noncitizens

A noncitizen is an eligible noncitizen if while lawfully residing in the U.S. the noncitizen or his or her minor child

- (a) has been battered or subjected to extreme cruelty in the U.S. by:
 - 1. a spouse or a parent, or a member of the spouse's or parent's family residing in the same household as the noncitizen; and
 - 2. the spouse or parent consented or did not intervene to stop such battery or cruelty. A noncitizen who actively participated in the battery or cruelty toward his or her child is ineligible; and

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- (b) the individual responsible for the battery or cruelty is no longer residing in the same household as the noncitizen or minor child subjected to the battery or cruelty; and
- (c) the noncitizen has been approved or has a pending petition for:
 1. status as a spouse or a child of a U.S. citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the INA;
 2. classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the INA;
 3. suspension of deportation and adjustment of status pursuant to section 244(a)(3) of the INA; or
 4. status as a spouse or child of a U.S. citizen pursuant to clause (I) of section 204(a)(1)(A) of the INA, or classification pursuant to clause (I) of section 204(a)(1)(B) of the INA.

(9) Cuban/Haitian Entrants

A noncitizen present in the U.S. as a Cuban/Haitian entrant under section 501(e) of the Refugee Education Assistance Act of 1980 or under section 212(d)(5) of the INA is an eligible noncitizen.

(10) Amerasian

A noncitizen from Vietnam who is present in the U.S. as an Amerasian immigrant (as defined in section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988) is an eligible noncitizen.

(11) Victims of Severe Forms of Trafficking

A noncitizen who is present in the U.S. having been issued a letter of certification by the U.S. Department of Health and Human Services (HHS) as proof of the victim of severe forms of trafficking status (as defined in the Trafficking Victims Protection Act of 2000) is an eligible noncitizen.

(B) Verification of Noncitizen Status

The noncitizen INS status shall be verified in accordance with Department procedures.

The applicant or recipient must submit verification of the noncitizen status and the date the status was granted for each member of the filing unit at application, at eligibility reviews or whenever the status of the noncitizen changes or is questionable. A noncitizen veteran, spouse or dependent child must verify military discharge, active duty, death certificate for the veteran and/or relationship. A battered noncitizen must verify the battery or cruelty and the applicable approved or pending petition status.

The legal permanent resident, parolee or conditional entrant noncitizen who entered the U.S. before 8/22/96 must submit verification of entering the U.S. before 8/22/96 and being continuously present in the U.S. from the latest date of entry prior to 8/22/96 until the status was granted. The continuous presence is interrupted by a single absence of more than 30 days or a total of aggregated absences of more than 90 days.

(C) Ineligible Noncitizen Status

An individual present in the United States under conditions or sections of the INA not in accordance iwth Department procedures is ineligible for TAFDC.

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203.681: Deeming of Income and Assets for a Noncitizen Sponsored with an Affidavit of Support Effective On or After December 19, 1997

(A) Definitions(1) Sponsor

A sponsor is any person who executed an affidavit of support or similar agreement (meeting the requirements of Section 423, Title IV of the Personal Responsibility & Work Opportunity Reconciliation Act (PRWORA) of 1996), on behalf of a noncitizen as a condition of that noncitizen's entry into the United States.

(2) Sponsored Noncitizen

A sponsored noncitizen is a noncitizen who has been admitted to the United States for permanent residence and for whom an affidavit of support was signed as a condition of entry.

(3) Affidavit of Support

- (a) An affidavit of support is a contract meeting the requirements of Section 423, Title IV of the Personal Responsibility & Work Opportunity Reconciliation Act (PRWORA) of 1996, in which a sponsor agrees to financially support the noncitizen, so that the noncitizen will not become a public charge.
- (b) The affidavit of support is a contract which is legally enforceable against the sponsor by the federal, state or local agency which provides any means-tested public benefits program.

(B) Requirements

- (1) After a sponsored noncitizen enters the United States for permanent residence, the sponsored noncitizen's income and assets shall be deemed to include the income and assets of the sponsor and the sponsor's spouse (if living with the sponsor) as specified in accordance with 106 CMR 203.681 (E) and (F).
- (2) The sponsored noncitizen applicant or recipient must cooperate in obtaining the necessary income and asset information from the sponsor. Failure of the sponsored noncitizen applicant or recipient or the sponsor to cooperate in determining the amount of income and assets available to the sponsored noncitizen applicant or recipient from the sponsor shall result in denial or termination of assistance. See 106 CMR 701.410: Responsibility for Verification.

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- (3) The sponsored noncitizen shall be deemed to receive support from his or her sponsor until one of the following occurs:
- (a) The noncitizen achieves United States citizenship through naturalization pursuant to Chapter 2 of Title III of the Immigration and Nationality Act; or
 - (b) The noncitizen has worked a minimum of 40 qualifying quarters under Title II of the Social Security Act; or
 - (c) The noncitizen can be credited with a total of 40 qualifying quarters under Title II of the Social Security Act as worked by a combination of:
 - 1. the noncitizen;
 - 2. the parent(s) of the noncitizen prior to the birth of the noncitizen up to age 18; and/or
 - 3. the spouse of the noncitizen during their marriage if the noncitizen remains married to the spouse or is widowed.
- No quarter may be claimed after December 31, 1996 if benefits from a means-tested program were received from any state during that same quarter.
- (d) The noncitizen ceases to hold the status of a noncitizen lawfully admitted for permanent residence and has departed the United States; or
 - (e) The sponsor or the sponsored noncitizen dies.

(C) Verifications

- (1) A sponsorship agreement must be verified by a copy of the affidavit of support or similar agreement (meeting the requirements of Section 423, Title IV of the Personal Responsibility & Work Opportunity Reconciliation Act (PRWORA) of 1996).
- (2) The following information must be provided to the Department by the noncitizen at application or at the eligibility review.
 - (a) The name, address and telephone number of the sponsor.
 - (b) The income and assets of the sponsor and the sponsor's spouse, if any. All income and assets of the sponsor or sponsor's spouse, or both, shall be verified in accordance with 106 CMR 204, et seq.

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(D) Noncitizens Who Are Exempt from Sponsored Noncitizen Provisions

- (1) The provisions of this section shall not apply to any noncitizen present in the United States who is:
 - (a) granted asylum under section 208 of the Immigration and Nationality Act (INA);
 - (b) admitted as a refugee under section 207 of the INA;
 - (c) paroled under section 212(d)(5) of the INA for a period of at least one year;
 - (d) a member of a Hmong or other Highland Laotian tribe at the time the tribe rendered assistance to the United States personnel by taking part in a military or rescue operation during the Vietnam Era beginning August 5, 1964 and ending May 7, 1975;
 - (e) a noncitizen whose deportation is being withheld under section 243(h) or 241(b)(3) of the INA;
 - (f) a Cuban/Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980);
 - (g) an Amerasian immigrant (as defined in section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988);
 - (h) a conditional entrant under section 203(a)(7) of the INA;
 - (i) a Veteran or active duty personnel in accordance with 106 CMR 203.675(A)(1); or
 - (j) sponsored by a public or private organization or group rather than by an individual.
- (2) The deeming provisions shall also not apply for a period of 12 months to any noncitizen with an affidavit of support who is:
 - (a) battered, if there is a substantial connection between the need for TAFDC and the battery (in the opinion of the Department, which opinion is not subject to review by any court) :
 1. if the noncitizen was battered or subject to extreme cruelty in the United States by a spouse or a parent, or by a member of the family of the spouse or parent residing in the same household as the noncitizen and the spouse or parent consented or acquiesced to such battery or cruelty; or
 2. if the noncitizen's child has been battered or subject to extreme cruelty in the United States by a spouse or a parent of the noncitizen (without active participation of the noncitizen in the battery or cruelty), or by a member of the family of the spouse or parent residing in the same household as the noncitizen and the spouse or parent consented or acquiesced to such battery or cruelty; and
 3. if the battered noncitizen or the battered noncitizen's child is no longer living in the same household as the individual responsible for such battery or cruelty; and

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4. benefits may be continued after the 12-month period if the noncitizen demonstrates that such battery or cruelty described in 106 CMR 203.681 (D)(2)(a) 1, 2 and 3 has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service, and that such battery or cruelty has a substantial connection to the need for benefits.

- (b) indigent and the Department determines the noncitizen would, without the Department's assistance, be unable to obtain food and shelter, taking into account the noncitizen's own income plus any cash, food, housing or other assistance provided by other individuals including the sponsor. The amount of income and assets from the sponsor or the sponsor's spouse that shall be attributed to the sponsored noncitizen shall not exceed the amount actually provided for a period of one year from the date such a determination is made.

The Department shall notify the Attorney General of each such determination, including the names of the sponsor and the sponsored noncitizen involved.

(E) Determination of Income from a Sponsor

The total gross monthly income of a sponsor and sponsor's spouse (if living with the sponsor) shall be deemed available to the sponsored noncitizen. See 106 CMR 204.210: Types of Countable Income.

(F) Determination of Available Assets from a Sponsor

The total assets of the sponsor and the sponsor's spouse (if living with the sponsor), in accordance with 106 CMR 204.100 through 204.140, shall be deemed available to the sponsored noncitizen.

(G) Sponsorship of More Than One Noncitizen

If an individual is the sponsor of more than one noncitizen, the total monthly income and total assets of the sponsor and sponsor's spouse (if living with the sponsor) shall be deemed in its entirety to each sponsored noncitizen.

(H) Request for Reimbursement

- (1) The sponsor is obligated to reimburse the Department for any means-tested public benefit which was provided to the sponsored noncitizen, unless the sponsor's obligation terminates as listed in 106 CMR 203.681(B)(3). The termination of the sponsor's support obligation does not relieve the sponsor of reimbursement obligation that accrued before the support obligation terminated.
- (2) The request for reimbursement shall be a written request notifying the sponsor that the sponsor must, within 45 days of the date of service, respond to the request for reimbursement either by paying the reimbursement or arranging to commence payments. If within 45 days the sponsor does not indicate a willingness to pay, the Department may sue the sponsor in a state or federal court.

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A person with at least 50 percent Indian blood who was born in Canada and who has maintained residence in the United States since his or her entry must be regarded as having been lawfully admitted for permanent residence.

Persons with less than 50 percent Indian blood must satisfy the requirements of 106 CMR 203.675: Noncitizen Status, and, if appropriate, 106 CMR 203.680 and 203.681: Deeming of Income and Assets for a Noncitizen Sponsored with an Affidavit of Support Effective Before December 19, 1997 and Deeming of Income and Assets for a Noncitizen Sponsored with an Affidavit of Support Effective On or After December 19, 1997

(B) Verifications

This status must be verified. Canada-born Indian status is verified by one of the following:

- (1) a "band card" issued by the band council of a Canadian Indian reserve;
- (2) birth or baptism records;
- (3) a provincial Union of Indians card (such as a Union of Nova Scotia Indians card); or
- (4) an affidavit from a tribal official or other person knowledgeable about the applicant's or recipient's family ancestry.

203.700: Cooperation with Child Support Requirements

Requirements

- (A) A grantee, or a teen parent who is not the grantee, must meet the following requirements for a dependent child for whom he or she is applying or receiving assistance:
- (1) assign to the Department of Transitional Assistance (DTA) any rights that he or she may have to child or spousal support or child support from any other person in accordance with 106 CMR 203.710;
 - (2) cooperate and continue to cooperate with DTA, and the Child Support Enforcement Division of the Department of Revenue (DOR) to:
 - (a) make reasonable efforts to furnish identifying information about the noncustodial parent(s);
 - (b) establish parentage;
 - (c) establish, modify or enforce a child support order for each dependent child; and
 - (d) pay to DOR any child and spousal support payments received from the noncustodial parent(s) after an assignment has been made; and
 - (3) identify and provide information that would assist DTA in pursuing any third-party liability for medical expenses.
- (B) A grantee, or a teen parent who is not the grantee, is not required to cooperate when there is good cause for noncooperation as specified in 106 CMR 203.745. DTA determines if there is good cause for noncooperation.
- (C) When a grantee refuses to assign any rights that he or she may have to child or spousal support from any other person in accordance with 106 CMR 203.710, the entire assistance unit is ineligible and assistance shall be denied or terminated until such time as the requirements of 106 CMR 203.710 are met.

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- (D) When a teen parent who is not the grantee refuses to assign any rights that he or she has to child or spousal support from any other person in accordance with 106 CMR 203.710, the teen parent and his or her dependent child are ineligible and assistance shall be denied or terminated until such time as the requirements of 106 CMR 203.710 are met.
- (E) When a grantee, or a teen parent who is not the grantee, fails without good cause to cooperate, then he or she will be sanctioned by DTA:
 - (1) by denial or reduction of cash benefits by an amount equal to his or her portion of the assistance grant; and
 - (2) if it is the grantee who will not cooperate, by the establishment of vendor payments to the extent possible for any assistance for which the remaining members of the assistance unit are eligible.

203.710: Assignment of Right to Support

(A) Requirements

- (1) The grantee, or a teen parent who is not the grantee, must assign to DTA any rights of spousal and child support and medical insurance benefits that he or she may have for a dependent child. The assignment of support rights applies to any rights:
 - (a) on the grantee's own behalf unless he or she is an ineligible grantee;
 - (b) on behalf of the teen parent who is not the grantee; or
 - (c) on behalf of any family member for whom he or she is applying or receiving assistance.
- (2) The grantee, or a teen parent who is not the grantee, must assign to DTA any rights of medical insurance benefits for the child born after the Family Cap date as defined in 106 CMR 203.300.
- (3) When a grantee refuses to assign any rights of spousal and child support and medical insurance benefits in accordance with 106 CMR 203.710(A)(1), the entire assistance unit is subject to the sanction stated in 106 CMR 203.700(C).
- (4) When a teen parent who is not the grantee refuses to assign any rights of spousal and child support and medical insurance benefits in accordance with 106 CMR 203.710(A)(1), the teen parent and his or her dependent child are subject to the sanction stated in 106 CMR 203.700(D).
- (5) Refusal of the grantee, or a teen parent who is not the grantee, to assign his or her rights does not abrogate the right of DOR to collect support for the amount of assistance provided.

(B) Verification

The assignment of rights is made by completing a form prescribed by DTA.

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The grantee, or a teen parent who is not the grantee, may claim good cause for noncooperation with the Child Support Requirements at any time. At application, the good cause claim must be investigated before the case is referred to the Child Support Enforcement Division of DOR. When the grantee, or a teen parent who is not the grantee, informs DTA or DOR of facts that may constitute good cause and wants to claim good cause after the case was referred to DOR, DOR will cease all child support enforcement efforts until DTA determines good cause.

(A) It is the responsibility of the grantee, or the teen parent who is not the grantee, to:

- (1) specify the circumstances under which good cause is claimed; and
- (2) provide corroborative evidence substantiating the good cause claim.

The burden of producing evidence to establish good cause is upon the grantee, or the teen parent who is not the grantee; however, the assistance of the worker may be requested in obtaining evidence.

(B) It is the responsibility of the DTA worker to:

- (1) determine whether there is good cause for not cooperating with the child support requirements;
- (2) determine whether DOR could proceed without risk of harm to the child or the relative with whom the child resides if the enforcement or collection activities did not involve the cooperation or participation of the relative or the child; and
- (3) notify DOR when the recipient has claimed good cause.

203.745: Grounds for Good Cause

Good cause is present if at least one of the following circumstances exists:

- (A) The child was conceived as a result of incest or forcible rape;
- (B) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction;
- (C) The grantee, or a teen parent who is not the grantee, is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish him or her for adoption, and discussions have not lasted for more than three months; or
- (D) Cooperation would result in serious harm or emotional impairment to the child or the relative with whom the child resides.

(See 106 CMR 203.750 for verification(s)).

203.750: Circumstances Under Which Cooperation May Be Against the Best Interests of the Child

(A) Requirements

- (1) Cooperation in establishing paternity and securing support is against the best interests of the child only if cooperation of the grantee or a teen parent who is not the grantee, is reasonably anticipated to result in:
 - (a) physical harm of a serious nature to the child for whom support is sought, or to the relative with whom the child is living which would reduce his or her capacity to care for the child adequately; or
 - (b) an emotional impairment that substantially affects the functioning of the child for whom support is sought, or of the relative with whom the child is living, and which would reduce his or her capacity to care for the child adequately.
- (2) For every good cause determination which is based in whole or in part upon anticipation of emotional harm to the child or relative, the worker must consider the following:
 - (a) the present emotional state of the individual subject to emotional harm;
 - (b) the emotional health history of the individual subject to emotional harm;

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- (c) the intensity and probable duration of the emotional upset;
- (d) the degree of cooperation to be required; and
- (e) the extent of involvement of the child in the paternity establishment or support enforcement activity to be undertaken.

(B) Verifications

- (1) A claim of good cause must be verified by one of the following:
 - (a) birth certificate or medical or law enforcement records that indicate that a child was conceived as the result of incest or forcible rape. Acceptable medical records shall include records reflecting the judgment of a disinterested third party including, but not limited to, counselors, therapists, or any other medical or psychological health professional that conception is the result of rape;
 - (b) court documents or other records that indicate that legal proceedings for adoption are pending before a court of competent jurisdiction;
 - (c) court, medical, criminal, child protective services, social service, psychological, or law enforcement records that indicate the putative or noncustodial parent might inflict physical or emotional harm on the child or relative;
 - (d) medical records regarding the emotional health history and present emotional health status of the relative of the child or the child for whom support would be sought that indicate emotional harm would result from cooperation, or written statements from a mental health professional indicating such results; or
 - (e) a written statement from a public or licensed private social agency that the grantee, or a teen parent who is not the grantee, is being assisted by the agency to resolve the issue of whether to keep the child or relinquish him or her for adoption.
- (2) When none of the items listed in 106 CMR 203.750(B)(1) above is present or conclusive, a sworn statement from the grantee, or a teen parent who is not the grantee, and at least one other individual with knowledge of the circumstances that provide the basis for the claim of good cause may support the claim of good cause.

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203.755: Reserved

203.760: Final Determination of Good Cause

(A) Requirements

- (1) After considering the evidence provided by the grantee, or a teen parent who is not the grantee, the worker must make a determination of:
 - (a) whether or not the grantee, or a teen parent who is not the grantee, has good cause for not cooperating with the child support requirements; and
 - (b) whether or not DOR can proceed without risk of harm to the child or the grantee, or a teen parent who is not the grantee, since the DOR activities do not involve their participation.
- (2) The final determination must be made within 30 days of the good cause claim, except where the worker has documented that extra time is needed to secure additional evidence.
- (3) The determination must:
 - (a) contain, in written form, the worker's findings and the basis for the determination;
 - (b) be reviewed and approved by the supervisor; and
 - (c) be made a part of the case record.
- (4) If the worker finds that good cause does not exist, the grantee, or the teen parent who is not the grantee, must be notified in writing of the worker's findings and basis for determination, and afforded an opportunity to cooperate or withdraw the request for assistance.

If the grantee, or the teen parent who is not the grantee, does not withdraw the request for assistance, the worker notifies DOR to proceed with the child support enforcement efforts.

If the grantee, or the teen parent who is not the grantee, does not cooperate with DOR, he or she must be removed from the assistance unit and vendor payments must be instituted, to the extent possible. The grantee retains the right to appeal such action.

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- (5) If the worker finds that good cause exists, but determines that DOR may proceed to establish paternity or enforce support without placing the grantee, teen parent who is not the grantee, or the dependent child at risk of physical or emotional harm, the worker must inform the grantee or the grantee and the teen parent who is not the grantee of the worker's decision in writing. This written notice must contain a summary of the worker's findings and basis for determination. It must also inform the grantee that he or she has the right to withdraw the request for assistance or to have the case closed. If the grantee does not withdraw the request for assistance, the worker notifies DOR to proceed with child support enforcement efforts.

(B) Verification

For those cases in which the worker finds that good cause exists, the approved written findings of good cause in the case record is verification that a final determination of good cause has been made.

For those cases in which the worker finds that good cause does not exist or that good cause does exist but DOR may proceed to establish paternity or enforce support, the approved written finding in the case record shall be verification that a final determination has been made.

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Assistance will not be denied or discontinued, pending a determination of good cause, if the grantee, or a teen parent who is not the grantee, has provided evidence of at least one of the circumstances, listed in 106 CMR 203.745 or 203.750, or sufficient information to permit an investigation by the worker to determine the existence of any of these circumstances.

203.770: Result of Sanction for Failure to Cooperate Without Good Cause

- (A) When a grantee, or a teen parent who is not the grantee, is sanctioned for failure to cooperate with DOR without good cause, the grantee shall receive a notice informing him or her of:
 - (1) the changes in the assistance grant amount;
 - (2) the reason(s) for the decision;
 - (3) the obligation to cooperate; and
 - (4) the right to appeal this decision with DTA.
- (B) If the grantee does appeal, he or she shall have the burden to prove by a preponderance of evidence that he or she, or the teen parent who is not the grantee, did cooperate with DOR.
- (C) A sanctioned grantee or teen parent who is not the grantee continues to be subject to all appropriate requirements during the sanction period including, but not limited to, the Work Program, time-limited benefits and the family cap.
- (D) When a sanctioned grantee or teen parent who is not the grantee notifies DTA that he or she is willing to cooperate with DOR and signs a form prescribed by the Department, DTA shall send a copy of the signed form to DOR within three business days of the date the grantee or teen parent signed the form.
- (E) The sanctioned grantee or teen parent who is not the grantee shall be deemed to have cooperated with child support enforcement requirements and the sanction will be removed if DOR has not informed DTA of the status of the case within 70 days from the date the form described in (D) above is sent to DOR.
- (F) Following the determination of noncooperation by DOR, if a sanctioned grantee or teen parent who is not the grantee states that he or she wishes to cooperate and DOR then determines that he or she has cooperated, DOR shall notify DTA of the cooperation and the sanction will be removed.
- (G) Following the determination of noncooperation by DOR, if a sanctioned grantee or teen parent who is not the grantee states that he or she wishes to cooperate and then fails to appear for the DOR-scheduled court date or appointment, DOR shall issue a determination of noncooperation to DTA in accordance with DOR's regulations. DTA shall keep the sanction in effect, or if necessary, reinstate the sanction.

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203.775: Periodic Review of Good Cause

The worker must review all cases in which a finding of good cause has been made, except for those based on forcible rape, incest, or serious harm, at each eligibility review or whenever information is obtained that indicates a need to reconsider eligibility. Reverification of good cause shall not be required at eligibility review or at any other time, unless information is obtained that indicates a need to reconsider eligibility for good cause. If grounds for good cause are forcible rape, incest, or emotional problems, the worker may inquire whether the grantee or teen parent who is not the grantee now wants to cooperate. If the worker determines that circumstances have changed such that good cause no longer exists, or if the grantee or teen parent who is not the grantee wishes to cooperate, the worker must rescind the findings and proceed to enforce the requirement.

203.780: Department of Revenue (DOR) Activities

It is the responsibility of the DOR to attempt to locate absent parents and obtain current support obligations and any arrearages from parents who are delinquent in meeting such obligations. The following activities may be engaged in by DOR in its attempt to collect support:

- (A) When there is an outstanding probate court order that is not being complied with, DOR may institute contempt proceedings in the probate court where the original action took place.
- (B) When there is an outstanding district court order, DOR may notify the appropriate probation department requesting enforcement thereof.
- (C) When there is no court order for support, DOR may try to locate the absent parent and negotiate a legally binding agreement. If this is not possible, DOR may establish the support obligation through court order by filing a complaint in the district court or, when appropriate, the probate court.

203.785: Cooperation in Obtaining Third-Party Liability Coverage for Medical Services

As a condition of eligibility, each grantee or teen parent who is not a grantee must cooperate with the Department in identifying and providing information that would assist the Department in pursuing any third-party liability for medical services unless he or she has good cause for not cooperating. The grounds for good cause for not cooperating are the same as those for Child Support, as specified in 106 CMR 203.745.

203.790: Family Abandonment Penalty

A parent who leaves his or her family for the purpose of qualifying his or her family for assistance under any of the programs administered by DTA shall be punished by a fine of an amount established by law or imprisonment for not more than three months.

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The grantee must ensure that each dependent child is properly immunized. Failure to comply with this requirement shall result in the ineligibility of the grantee unless there is good cause as specified in 106 CMR 203.800(B).

The grantee must provide verification of the dependent child's immunization at application, upon notification of the birth of a dependent child who will be included in the assistance unit, and when the dependent child turns age two.

The grantee has 60 days from the date of notification of this requirement to provide verification of compliance with the immunization requirement, or a written statement, signed by an appropriate health care provider, of the date such immunizations have been scheduled.

In cases where the immunization certificate states that the dependent child does not have the age-appropriate immunizations, the grantee is also required to submit a statement from the health care provider indicating that the immunizations have been completed within 30 days of the scheduled appointment.

(B) Good Cause for Failure to Comply with Immunization Requirement

Good cause for failure to comply with the immunization requirement is limited to the reasons listed below.

- (1) A grantee states in writing that the required immunization(s) conflicts with his or her religious beliefs.
- (2) A physician certifies in writing that the child should not be immunized due to medical reasons.
- (3) A grantee states in writing that he or she refused an immunization(s) for a dependent child after consultation with a physician due to his or her belief that there is a potential health risk from the immunization(s).

(C) Sanction for Noncompliance with Immunization Requirement

When a grantee fails to comply with these requirements without good cause, he or she will be sanctioned by a denial or a reduction of cash benefits in an amount equal to his or her portion of the assistance grant. In two-parent households, both parents will be sanctioned for failure to comply with this requirement.

A sanctioned grantee(s) is still subject to other TAFDC provisions, including, but not limited to, the Time-Limited Benefits specified in 106 CMR 203.200, Family Cap as specified in 106 CMR 203.300 and the Work Program requirements as specified in 106 CMR 203.400.

Once a grantee is sanctioned, the sanction will be imposed until the proper documentation is provided.

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(D) Verification

- (1) Since age-appropriate immunizations are required for school enrollment, verification of school enrollment satisfies the immunization verification requirement for a school-age child.
- (2) Since immunizations are required for participation in Head Start or a licensed day care program, the following verifications satisfy the requirement for a child participating in Head Start or a licensed day care program:
 - (a) if the Department pays for the Head Start or licensed day care program, no further verification is required;
 - (b) a copy of the immunization form for Head Start or licensed day care program; or
 - (c) a written statement from the Head Start or licensed day care program that the child is enrolled.
- (3) Verification of immunization for a dependent child may be satisfied by one of the following:
 - (a) a written statement on the health care provider's letterhead that the child is up to date on his or her immunizations;
 - (b) a copy of a MassHealth or other insurance bill for a well-child visit; or
 - (c) completion of a form, prescribed by the Department, and signed by the health care provider.

203.900: Learnfare

(A) Requirements

A dependent child(ren) under the age of 14 must attend school regularly.

(1) Submission of Quarterly School Attendance Verification

- (a) A grantee who is applying for or receiving TAFDC for a dependent child under age 14 is required to verify the dependent child's attendance at a private school, public school or an approved home school program, unless a grantee is disabled in accordance with 106 CMR 203.100.
- (b) Documentation verifying the dependent child's attendance must be submitted within 14 calendar days after the end of a school quarter and include the number of unexcused absences the dependent child had in that quarter.

(2) Probationary Status

- (a) A grantee is placed in a probationary status when the documentation required by 106 CMR 203.900(A)(1):
 - 1. is not submitted without good cause in accordance with 106 CMR 203.900(A)(2)(e); or
 - 2. shows the dependent child had more than eight unexcused absences in the previous school quarter.
- (b) The Department will notify the school and the grantee when the grantee is placed in probationary status. The grantee shall have the opportunity to dispute the information concerning unexcused absences with the Department. For purposes of this provision, an absence shall be considered excused if the absence(s) is due to one or more of the following reasons:
 - 1. illness as certified by a physician or a written statement from the grantee if the illness was less than five consecutive school days;
 - 2. hospitalization as certified by hospital records;
 - 3. a disability that would meet an exemption specified in 106 CMR 203.100;
 - 4. death of a family member as verified by a death certificate or death notice;

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- 5. religious holidays; or
- 6. a crisis situation approved by the director or designee.
- (c) A grantee in probationary status is required to submit, by the fifteenth of each month, documentation for the previous month showing the number of unexcused absences for the dependent child in that month.
- (d) A grantee shall remain in probationary status for six months, or until such time that the number of unexcused absences during the six preceding school months is 10 or less, whichever is longer.
- (e) Good cause is present when the grantee has taken all necessary steps on his or her part to obtain the documentation but the school authority has been unable to comply with the request.

(3) Sanctions

In an assistance unit in which the grantee is in probationary status, the dependent child whose unexcused absences brought about the probationary status will be sanctioned, and the cash benefits reduced by an amount equal to the dependent child's portion of the assistance grant, when the documentation:

- (a) is not submitted without good cause in accordance with 106 CMR 203.900(A)(2)(e); or
- (b) shows the dependent child had more than three unexcused absences during any month in the probationary period.

If the only dependent child is sanctioned, the grantee may constitute an assistance unit of one if otherwise eligible.

The Department will notify the school and the Department of Social Services when a dependent child has been sanctioned for three consecutive months. The purpose of these notifications is to obtain assistance in addressing the problems associated with the child's inadequate level of school attendance.

(B) Verifications

The following verifications are mandatory.

- (1) Verification of school attendance shall be a method specified by the Department. The Department may establish procedures to obtain school verification directly from school institutions or school districts.

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- (2) Verification of the grantee's disability shall be in accordance with 106 CMR 203.100(B).
- (3) Verification of an approved home school program shall be a written statement from the local school authority attesting to the approved home school program arrangement and a written statement from the provider of the approved home school program.

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An individual who is participating in a strike is not eligible for TAFDC. If an individual is participating in a strike on the last day of a calendar month, he or she shall be considered to have been participating in a strike for the entire calendar month. Assistance which was paid for any month in which an individual was considered to have been on strike must be considered an overpayment and shall be treated in accordance with the provisions of 106 CMR 706.200, et seq. The amount of the overpayment shall be determined in accordance with 106 CMR 203.920(C) below.

(A) Definition

A strike is any concerted stoppage of work by employees, including a stoppage by reason of the expiration of a collective bargaining agreement, or any concerted slowdown or other concerted interruption of operations by employees.

(B) Participation in a Strike

An individual shall be considered to be participating in a strike if he or she is actively engaged in a concerted work stoppage, slow down or interruption, or if he or she is honoring such an action by willful absence from his or her position or refusal, in whole or in part, to perform the duties of his or her employment.

(C) Sanctions

If the individual who is participating in a strike is a parent, or is the only child in the assistance unit, the entire assistance unit is ineligible. In all other instances, the individual participating in the strike is ineligible.

(D) Restoration of TAFDC Benefits

At the termination of a strike, an otherwise eligible individual whose assistance was terminated or denied due to participation in a strike may request restoration of TAFDC benefits or may apply for TAFDC benefits. The individual must provide verification that the strike has ended. Acceptable verification shall be a written statement from either the collective bargaining representative or the employer.